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COMMENTARIES

ON THE

CONSTITUTIONS AND LAWS,

OF THE

PEOPLES AND HISTORY,

OF THE

UNITED STATES;

AND UPON THE

GREAT REBELLION

AND ITS CAUSES.

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BY EZRA C. SEAMAN,
Counsellor at Law,
AND AUTHOR OF ESSAYS ON THE PROGRESS OF NATIONS.

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1863.

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CHAPTER I.

INTRODUCTORY REMARKS VIEWS AND PRINCIPLES, AND FUNDAMENTAL LAWS.

SEC. 1. Man was created with numerous wants and with various faculties to supply them. His constitution nature and faculties are adapted to the material world, of which his physical nature constitutes a part; and such is the plastic character of his constitution and nature, that they tend to change, and to become adapted to his modes of living, food, action and industry, and to the climate and condition in which he is placed. This tendency produces what we call habit. In the progress of events, it substantially changes the constitution and nature of man; and hence, we properly call habit a second nature. If it were not for this tendency, it would be impossible for a majority of mankind to enjoy even a tolerable degree of health and happiness, and life would be insupportable.

SEC. 2. NATURAL RIGHTS.

Every adult of sound mind, (criminals and dangerous persons excepted,) has a natural and inherent right to the enjoyment of life and personal liberty; to the control of his own person and faculties; to a field of employment—to enable him to supply his wants; to the products of his own industry; to acquire, hold, enjoy and transfer property; and to exercise his faculties and use his property in accordance with the dictates of his own judgment; provided he acts in such a manner as not to infringe the rights, nor to mislead and corrupt the morals of others. It is absurd to claim, that the natural right of personal liberty includes a right to infringe the rights, endanger the

health or safety, corrupt the morals, destroy the good character, or otherwise prejudice the general welfare of others.

Children, idiots, and persons of unsound mind, who are not entitled to personal liberty, and even criminals, have their natural rights; which are subordinate to the safety and general welfare of the community.

The earth and all its spontaneous products in their natural state, were given to mankind in common, as fields of employment, to enable them to supply their wants. In its natural state, the earth produces but little food for man. He must improve it and cultivate it by labor, industry, and attention, to increase its products, and enable him to supply his wants.

It is impossible for mankind to occupy, improve and cultivate the earth in common, and hence the necessity of individuals, families, communities and peoples, appropriating to themselves particular portions of the earth, as a field of employment, to occupy, improve and cultivate, to enable them to supply their wants, and promote their own welfare and happiness. This is the origin of the rights of national dominion, and of individual property in lands. They originate in *appropriation and its necessity, and are consummated by occupancy and improvements thereon.*

Every person has an absolute perfect and individual right to the products of his own industry, and but a qualified right (to some extent a right in common) to the earth itself; but so long as nations do not appropriate an unreasonable share of the earth's surface to their exclusive use, (or if they have too large a proportion, do not exclude immigrants from other countries, from settling and living with them, and participating in its benefits), no injustice is done to the people of other nations and countries. The appropriation of lands by individuals and families, for their exclusive use, before the organization of governments, should be regulated by the same rules of necessity and propriety; and after the organization of society andof government, it should be regulated by law. All lands should be held by individuals subordinate to the general welfare of the community and of the nation.

National dominion over lands and countries, as well as individual property in lands, being ultimately based on necessity, as the only means of enabling man to supply his wants, the proper exercise of

that dominion should be limited to the necessity on which it is founded. Hence, it would be unjust and contrary to the laws of nature for any people or nation to appropriate to their own exclusive use three, five or ten times their proper portion of the earth's surface, required by their relative numbers, and refuse to allow immigrants from over peopled, or more densely peopled countries, to settle with them, and participate in the occupancy of the country so appropriated.—Natural justice, the principles of equity, and the laws of nature, require that the earth should be equally divided among the peoples and nations of the earth, in proportion to their respective numbers; so that like numbers may participate equally in its natural resources. So long as a nation enjoys more than its equal share of the natural resources of the earth in proportion to its numbers, it cannot justly refuse to admit immigrants to a participation in its advantages; but whenever it becomes densely peopled, and has more than its average population in proportion to its natural resources, no principle of natural justice or equity requires them to admit immigrants from foreign countries, except a few in the seaports, who may be engaged in foreign commerce.

The conclusions from these propositions are obvious; that nations or tribes of hunters, few in numbers, (like our indian tribes), have not a natural right to exercise exclusive dominion over large extents of country, to roam over and use only for hunting grounds; and that the States of this Union have not a natural right to exclude honest peaceable and industrious inhabitants from the more densely peopled countries of Europe, from settling in them and becoming purchasers, occupants, and owners of real estate.

Sec. 3. Origin of laws.

The laws of nature arise from the nature and constitution of man and of the material world. They constitute the basis of the rights, obligations and duties of man, and of the powers of government.—They existed anterior to human government. They prohibit crimes and offences of all kinds. The natural understanding and conscience of man teach him the principles and outlines of the laws of nature. The natural understanding and conscience teach men that murder, robbery, theft, arson, perjury, assault and battery, trespass and injuries to property, are crimes, which should be punished.

The practice of the most enlightened individuals dictated by reason

is followed by others, and becomes the origin of usages and customs, which are generally in most respects in accordance with the laws of nature. Usages and customs grow up spontaneously among every people, and become laws by the general acquiescence. Rude customs and usages grow up among savages and barbarians, adapted to their condition and modes of life, and become laws, anterior to the organization of society, and before the establishment of any regular system of government.

Laws as a general rule are developed spontaneously among the people, and are not often originated by lawgivers and legislators. After the establishment of a government, the rude customs and usages of the people are reduced to some order and system by the chiefs, monarch, or legislative council, and some mode of administering justice devised. As civilization advances, the incongruities of the rude laws customs and usages of the people are corrected from time to time by the courts of justice and by legislators, defects are occasionally supplied by legislative power, and the whole body of the laws more and more reduced to a system. Legislation moulds much law into form and consistency, but originates very little. As laws mostly originate in usage and custom, cotemporaneous usage is always the best exposition of statute laws and constitutions.

Sec. 4. Origin of governments.

Usages and customs, as well as natural law having existed prior to human legislation, the first exercise of the powers of government was to determine the law, that is, the law of nature, the principles of natural justice, and the usages and customs of the country, to punish crime and offences, and to administer justice in accordance therewith. This was done during the primitive and middle ages, by patriarchs, military chieftains, and councils, who combined and exercised legislative, judicial, and executive powers.

The reason of the great mass of uncultivated minds is very weak, and their mental visions very limited and imperfect; and hence without law and government to guide, direct and restrain them, they are governed by the impulses of their own appetites and passions. Mankind should live in families and society. The mode of living in society as well as in families, is in accordance with the nature of man, and necessary to his happiness and general welfare.

Order can not exist without law and government; and man can not exist in society without order, law, and government. Hence government has its origin in necessity; and though all free governments are established by, and derive their forms and division of powers from the assent and acquiescence of the people, yet the extent of their powers depends after all, mostly upon the laws of nature; upon the exigencies of society; upon the necessity of self-defence and self-preservation.

Another evidence that government is founded in necessity arising from the constitution and nature of man, is furnished by the fact that some degree and kind of government grows up spontaneously among every people, however savage or barbarous they may be. Those imperfect, self-developed governments are mostly of a patriarchal or ecclesiastical character, or the rule of chieftains elected by tribes. They are essentially modified and changed by successful military monarchs, by councils of military chieftains, councils of ecclesiastics, or conventions of representatives of the people.

SEC. 5. SOME NATURAL RIGHTS SURRENDERED TO THE GOVERNMENT —OTHERS RETAINED.

In the establishment of civil governments men surrender some of their natural rights in order to secure and protect others more perfectly. They surrender,

1. The natural right to redress their own wrongs and injuries.

2. They grant power to control their persons to aid in the defence of the state, and to tax their property so far as is necessary to support the government and promote the general welfare.

3. They grant power to regulate, by general laws, trade and commercial intercourse, the sale transfer and transmission of property, contracts, marriages and the domestic relations, education, highways and bridges, crimes, misdemeanors and all matters of police, and the administration of justice. But they do not surrender to the government the right of self-defence; self-preservation and self-defence are instincts of nature, and the right to use the means and the power necessary to secure them, constitutes the first law of nature. This right is inherent in families, communities, states and nations, as well as in individuals. It is an inalienable right which is never surrendered.

Hence the power to maintain its legitimate authority, to punish

conspiracies, and to put down all opposition to its just and proper laws, is implied in the grants of power to every supreme government. Without such power it would be impossible to overcome revolutionary movements, and to guard against conspiracies and insidious attempts to undermine its authority.

Sec. 6. Colonial charters, governments, and laws.

All the American Colonies that united in the Declaration of Independence in 1776, were claimed by Great Britain by the right of discovery. With the exception of New York New Jersey and Delaware, they were all first settled by colonists from England, under charters for colonial governments granted by the Kings of England. The Dutch from Holland made settlements on Manhatten Island, where the City of New York now stands, and also at Albany, on the west bank of the Hudson River, established a colonial government, called the country New Netherlands, and held it as a colony of Holland, until the year 1664; when it was surrendered to the English, and became thereafter a British colony.

The first settlements were made as follows: in Virginia at Jamestown in 1607; in New York at Albany in 1614; in Massachusetts at Plymouth in 1620; in New Hampshire at Dover in 1624; in New Jersey at Bergen in 1624; in Delaware at Cape Henlopen in 1630; in Connecticut at Windsor in 1633; in Maryland at St. Marys in 1634; in Rhode Island at Providence in 1636; in North Carolina at Albermarle in 1663; in South Carolinia at Port Royal in 1670; in Pennsylvania at Philadelphia in 1682; in Georgia at Savannah in 1733. New York as I have stated was first settled by the Dutch; New Jersey by the Dutch, Danes, and Swedes; Delaware by the Swedes and Finns. All the others colonies were first settled by the English.

The Dutch colony of New Netherlands extended their dominion over New Jersey, and in 1655 conquered the Swedes who had settled in Delaware, and extended their dominion over that colony also.

In 1665 New Jersey was granted to Lord Berkly and Sir George Carteret, and became a separate colony of England.

The title to Pennsylvania and Delaware was acquired by William Penn in 1682, and the two were united as one province or colony and

under one government, until 1703, when the people of Delaware were allowed to establish a separate colonial government of their own.

The whole country forming the thirteen original colonies was subject to the dominion of England from the conquest of the New Netherlands (now New York and New Jersey) in 1664,—until the Declaration of Independence in 1776. After the conquest of 1664 nearly all the settlers to the colonies were from England. They brought with them the English language, English customs and opinions, the common law of England, veneration for English laws and institutions, and also the Protestant religion. All the colonies but one was first settled by Protestants—the Dutch and the Swedes were Protestants. Maryland alone was first settled by a colony of Roman Catholics from England, under Lord Baltimore; but he was more liberal and tolerant than the Puritans of New England, and established a system of government and laws more in accordance with the system of modern American protestantism and civil and religous liberty, than existed in any of the New England colonies except Rhode Island, previous to the American Revolution.

Each colony had its own colonial legislature elected by its own people, and a Royal Governor appointed by the King of England. Each colony legislated for itself on all municipal and local questions and matters, subject to the veto of the Royal Governor. The colonies were all pendant branches from the same British stem, and had no political connection whatever except through the mother country. They were in fact entirely independent of each other, and their inter-colonial commeree was regulated by the British Parliament. Each colony had its laws, of which the common law of England, and so much of the statute laws as the Colonial Legislature saw fit to adopt, constituted the basis. The British system of law and jurisprudence substantially prevailed in all, slightly modified in each by Colonial legislation and by local customs and usages, which grew up spontaneously, and were adapted to their local situation wants and industry. Each colony had institutions and a system of laws and jurisprudence differing more or less from those of every other colony. Such was the condition of the thirteen colonies; each entirely independent of the others, at the time of the meeting of the first Continental Congress in 1774.

Sec. 7. Antiquity and origin of slavery.

Slavery existed among all the most civilized nations of antiquity, from a period anterior to authentic history. It existed among the Assyrians, Egyptians, Greeks, Romans, and Phenicians, and also among the Israelites, centuries before they became an independent nation. Sarah the wife of the Patriarch Abraham, had a bond woman named Hagar, as we read in the scriptures.

In the early ages of the world, and also among savage and barbarous tribes in modern times, it was common for captors to sell their captives taken in war, as slaves. Is was also common for parents to sell their children, and particularly their female children; and some sell their daughters in this age of the world.

Slavery thus originated in power and violence;—in the power of the captor over his prisoner, and in the power of the parents over their children. Precedent begat practice; practice grew into usage; usage expanded into common custom, and thus ripened into law, by the general acquiescence of the people, and of the legislative power, among nearly all ancient nations. Gibbon estimated that half of the Roman world were slaves. At the time of the Christian era, the slaves in the Roman Empire are generally supposed to have numbered more than fifty millions.

Sec. 8. Character of slavery, and how regarded in the scriptures.

Slavery is clearly inconsistent with the natural rights of man and contrary to the laws of nature established by the Deity in the nature of things and of man, and yet he tolerated it among his chosen people, the ancient Israelites. It is contrary to the principles of christanity, and inconsistent with the spirit of the Gospel, and yet it is not inconsistent with the letter of the Gospel. Neither Christ nor any of his disciples in any instance denounced slavery, or preached against it. They made no efforts to operate upon their own followers, nor upon the opinions of the Roman world, to induce the people to emancipate their slaves, as inconsistent with the duties of christians. On the contrary, they frequently exhorted slaves to obedience to their masters. See Ephesians, VI: 5 to 9; Colossians, III: 22; I Tim., VI: 2 and 3; Titus, II: 9; Exodus, XXI: 20 and 21.

Those exhortations of the apostles to servants to obey their masters, must have been given upon grounds of expediency only, to

preserve the peace of the community and the welfare of the slaves. The spiritual welfare, the eternal welfare of the slave must have been regarded, as better secured under the comparatively mild dominion of Roman slavery, than it could be in a state of insurrection, civil war, and the numerous murders massacrees devastations and destruction of human life, necessarily attending it. We cannot suppose that the apostle Paul intended to affirm the justice of slavery, and that it was established among the Israelites as a matter of justice. It was not however a religious, but a political question, and in any view which can be taken of it,—it seems to have been tolerated by God; and his chosen ministers taught servants and slaves to obey their masters, as a christian duty. We can see no grounds for it but expediency. How different the teachings of modern fanatics, who, assuming to speak as the chosen ministers of God, overlooking the peace of the community and its importance, and pretending to rely upon principle only, teach a total disregard of expediency. They attempt to superintend matters of government, law, and social institutions, as well as matters of religion and morals; and by connecting them all together, they assume to act upon higher and purer principles than those upon which the Gospel is based. Their assumption is that God has revealed to them a purer and more enlightened Gospel than he did to the apostles; that slavery as a political and social institution is sinful and wicked, under any and all circumstances; and that millions of professing christians have not understood their duty, and have been very wicked, by reason of their holding slaves. The people have reason to fear and distrust teachers of so high assumptions, and so much wisdom, upon questions that are not religious, but political and social.

Christ and his apostles confined themselves entirely to spiritual matters, and matters of religion and morals. They never discussed, and never attempted to teach the people questions of government, politics, the justice and policy of war, nor social philosophy. But some of our modern ministers of the Gospel claim to be taught of God upon the question of slavery and upon many questions of political policy, and to be able to teach the people authoritatively upon such subjects. Much of their teaching is of a strange character. They often attribute to God motives and purposes which seem unbecoming and unworthy of the Supreme Being. Such assumptions appear impious.

I believe it is possible to hold slaves under such circumstances, and to treat them in such a manner, as to do them no injustice,—but to benefit them, to promote their welfare, and to commit no sin by reason thereof; and that such is often the case, under laws which prohibit emancipatioa, except on conditions that are impracticable. General Washington may be named as an example.

SEC. 9. THE SLAVE TRADE, COLONIAL SLAVERY, AND EMANCIPATION.

The first expedition by an Englishman to the coast of Africa for negro slaves was by Capt., afterwards Sir John Hawkins, who procured a cargo of them, and took them for sale to the West Indies, in October, 1563. The first African slaves brought to the English North American colonies, were brought to the colony of Virginia—by a Dutch ship of war, in 1620.

It is said in Putnam's World's Progress, that "Queen Anne directed the colonial government of New York to take care 'that the Almighty should be devoutly and duly served according to the rights of the Church of England, and also that the *Royal African Company should be encouraged, and that the colony should have a constant and sufficient supply of merchantable negroes at moderate rates.*" In the year 1786 (he says) England employed 130 ships in the African slave trade, and that there were 770,280 slaves in the British colonies and plantations at the period of their emancipation, in 1833.

Mr. Cary says, in his history of the Slave Trade, that "in 1714, the number of blacks was 58,850, and they were dispersed throughout the provinces from New Hampshire to Carolina." He estimated the number imported into the thirteen colonies prior to 1714, at 30,000—from 1714 to the end of of 1770, at 199,500, and from 1771 to 1790 inclusive, at 34,000.

These facts show how active the foreign slave trade must have been during the whole of the 18th century, how it was regarded by Queen Anne, and by the government and christian people of England at that period, and how rapidly the slaves increased in these states, then colonies of England. There were more or less slaves in all the colonies.

The following is an estimate of the number of slaves in the several

colonies in 1776, and the number in 1790, according to the census of that year:

	In 1776	In 1790
In New Hampshire	600	158
Massachusetts	4,600	
Rhode Island	3,800	952
Connecticut	4,000	2,759
New York	15,000	21,324
New Jersey	8,000	11,423
Pennsylvania	5,000	3,737
Delaware	6,000	8,887
Maryland	74,000	103,036
Virginia and Kentucky	220,000	305,257
North Carolina and Tenn.	74,000	103,989
South Carolina	70,000	107,094
Georgia	15,000	29,264
	500,000	697,880

At the time of the declaration of indepencence, in 1776, the African slave trade was in full operation, and no nation of the earth had taken any measures for its abolition. It was not abolished by the British Parliament until March 1807, and the act of Congress to abolish it took effect in January 1808.

At the time of the Declaration of Independence in 1776, negroes were held, bought and sold as slaves, and universally regarded as property in each of the thirteen colonies; and such was the case also in all the states, except Massachusetts, at the time of the adoption of the federal constitution in 1788. At the former period, there were about half a million African slaves in the United States, and nearly seven hundred thousand at the the latter period—all of whom were regarded and treated as property. Such are the facts and circumstances, by the light of which the declaration and constitution of the United States should be interpreted.

The Pennsylvania Abolition Society, was founded by the Quakers in 1780: Benjamin Franklin was its first President, and Benjamin Rush its first Secretary. "The New York Manumission Society was formed in 1785,—John Jay being its first President, and Alexander Hamilton his successor. Similar associations were also formed in Connecticut, Rhode Island, Delaware, Maryland, and Virginia.

Those societies exerted a strong influence in favor of the abolition of slavery in several northern states."*

Vermont passed an act for the gradual abolition of slavery in 1777, before she was recognized as a state. Pennsylvania, in 1780, passed an act prohibiting the further introduction of slaves, and gave freedom to all persons thereafter born in the state. Connecticut and Rhode Island, passed similar acts in 1784.

Massachusetts adopted her first constitution in 1780, with a bill of rights, the first article of which was borrowed from the Declaration of Independence—declaring that "All men are born free and equal, and have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness." The Supreme Court of the state decided that the adoption of that article emancipated immediately all the slaves in the state.† The second paragraph of the Declaration of Independence constituted the germ of all the anti slavery movements in the United States, and in Europe.

In 1799, the Legislature of New York passed an act providing that slaves thereafter born should be free—the males at 28, and the females at 24 years of age. In 1804, New Jersey passed a similar act, for the gradual abolition of slavery. But none of the states ever provided any compensation to the slaveholder for the loss of his slaves. At the census of 1820 there were still in Rhode Island 48 slaves; in Connecticut 97; in New York 10,088; in New Jersey 7,557; in Pennsylvania 211; in Indiana 190; and in Illinois 917.

Time greatly abated Mr. Jefferson's zeal for the abolition of slavery. In 1776 he introduced into the Declaration of Independence the first germ of abolition, which took root in all the Northern States, in England, and on the continent of Europe. In 1784 he wrote the provision for the prohibition of slavery, afterwards incorporated into the famous ordinance of 1787. While he was President he purchased of Napoleon the province of Louisiana, with a small French and Spanish population of about 30,000 at New Orleans, and on the Mississippi river and its tributaries, with a few

* New American Cyclopedia, vol. 14, p 711.

† New American Cyclopedia, vol. 11, p. 871, and vol. 14, p. 710 to 711.

thousand slaves. In 1804 an act of Congress was passed to organize a government for the then territory of Orleans, (now the State of Louisiana); and in 1805 Congress passed an act to organize a territorial government for Louisiana Territory, comprising the remaining part of the purchase of Napoleon. Slavery then existed in each of those territories. In and by those acts, Congress in express words ratified and confirmed the laws then in force in each of those territories, and thereby directly recognised, ratified, and confirmed slavery in each of them; and Mr. Jefferson approved the acts—whereby Louisiana, Missouri, and Arkansas became slave states. Mr. Jefferson then had the power to have provided for the gradual abolition of slavery in those territories, and could thereby have made each of those states a free state. Why did he not do it? Had time and observation worked any change in his opinions of slavery, and the practicability and expediency of its abolition? How can his change of action be accounted for?

Sec. 10. Action of Congress, Declaration of Independence, and Articles of Confederation.

The various restrictions upon the industry, the burthens imposed upon the American Colonies, by the British government, and, numerous infringements of their rights, induced them to confer together, and finally led to an Assembly or Congress of deputies from nine Colonies, which met at New York, October 7th, 1765, to consult together for the protection of their common rights and interests. That Congress continued in session nearly three weeks, until the 25th of October, and among other things adopted a petition to the British Parliament for a redress of grievances.

For similar purposes, the first general Continental Congress of the American Colonies met at Philadelphia, September 5th, 1774. That Congress, (among other measures), adopted a declaration of Colonial rights, and a petition to the King and Parliament of Great Britain.

The second Continental Congress met at Philadelphia, May 10, 1775.

On the 7th of June, 1776, a resolution was introduced by Mr. Lee, of Virginia, "That these Colonies are and of right ought to be, free and independent States—that they are absolved from all allegiance to the British Crown—and that all political connection be-

tween them and the State of Great Britain is and ought to be, totally dissolved."

The resolution was laid on the table for future consideration, and a committee of five was appointed to draft and report a Declaration of Independence, consisting of

Thomas Jefferson, of Virginia,
John Adams, of Massachusetts,
Benjamin Franklin, of Pennsylvania,
Roger Sherman, of Connecticut, and
Robert R. Livingston, of New York.

On the 20th of June, 1776, the committee reported to Congress the draft of a Declaration of Independence, which was read and laid on the table.

On the first day of July, the resolution of June 7th was called up for consideration and was debated and passed the next day, July 2d; whereby Congress declared the then thirteen American Colonies, free and independent States, and absolved from all allegiance to the British Crown.

The next day, July 3d, Congress called for consideration the Declaration of Independence reported by the committee; which was slightly amended and finally passed and signed by the delegates from eleven of the Colonies, on the following day, (July 4th, 1776.) It was immediately published and hailed with demonstrations of great joy throughout the country.

DECLARATION OF INDEPENDENCE.

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the nations of the earth the separate and equal station to which the laws of uature and of nature's God entitle them, a decent respect for the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; and that, whenever any form of government becomes de-

structive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments, long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are suferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of the colonies, and such is now the necessity which constrains them to alter their former system of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operations till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions of the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise;

the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose, obstructing the laws of naturalization of foreigners, refusing to pass others to encourage their migration thither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harrass our people, and eat out their substance.

He has kept among us in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation.

For quartering large bodies of armed troops among us.

For protecting them, by mock trial, from punishment for any murders which they should commit on the inhabitants of these states.

For cutting off our trade with all parts of the world.

For imposing taxes on us without our consent.

For depriving us, in many cases, of the benefit of trial by jury.

For transporting us beyond seas, to be tried for pretended offences.

For abolishing the free system of English laws in neighboring provinces, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies.

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments.

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injuries. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren; we have warned them, from time to time, of the attempts by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare that these United Colonies are, and of

right ought to be, free and independent States; that they are absolved from all allegiance to the Britirh crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members.

JOHN HANCOCK.

New Hampshire.

JOSIAH BARTLETT,
WILLIAM WHIPPLE,
MATTHEW THORNTON,

Massachusetts Bay.

SAMUEL ADAMS,
JOHN ADAMS,
ROBERT TREAT PAINE,
ELBRIDGE GERRY.

Rhode Island.

STEPHEN HOPKINS,
WILLIAM ELLERY,

Connecticut.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
WILLIAM WILLIAMS,
OLIVER WOLCOTT.

New York.

WILLIAM FLOYD,
PHILIP LIVINGSTON,
FRANCIS LEWIS,
LEWIS MORRIS.

New Jersey.

RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,
JOHN HART,
ABRAHAM CLARK.

Pennsylvania.

ROBERT MORRIS,
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
GEORGE CLYMER,
JAMES SMITH,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS.

Delaware.

CÆSAR RODNEY,
GEORGE READ,
THOMAS M'KEAN.

Maryland.

SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHARLES CARROLL, of Carrollton.

Virginia.

GEORGE WHITE,
RICHARD HENRY LEE,
THOMAS JEFFEERSON,
BENJAMIN HARRISON,
THOMAS NELSON, Jr.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

North Carolina.
WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.

South Carolina.
EDWARD RUTLEDGE,
THOMAS HEYWARD, Jr.,
THOMAS LYNCH, Jr.,
ARTHUR MIDDLETON.

Georgia.
BUTTON GWINNETT,
LYMAN HALL,
GEORGE WALTON.

The union of the colonies sprang up as it were spontaneously, from the popular and general impression of the necessity of union and a national organization, to enable them to act in concert, to protect their rights, and to defend themselves against the military power of Great Britain. The members of the several Continental Congresses were elected by the legislatures of the several colonies, and met as voluntary conventions, without any national constitution, articles of compact or confederation, or any general law to unite them, call them together, or govern their action when assembled. The delegates met as embassadors or representatives of thirteen separate colonies, entirely independent of each other, and without any political or legal convention. A common origin, common language and literature, common interests, common dangers, and common and mutual sympathies, constituted at first the only bonds of union between them. After agreeing on a bill of colonial rights, a petition to the King, and various other measures, the delegates to the first Colonial Congress, finally agreed upon fourteen articles, as the basis of a voluntary "American Association"—pledging the members thereof to an entire commercial non-intercourse with Great Britain, Ireland and the British West Indies. The articles of association were signed by the delegates on the 20th of October, 1774, and their signature has been regarded as the commencement of the American Union. The acts and recommendations of that Congress were generally approved by the people of all the colonies.

The revolutionary war practically commenced at Lexington, on the 19th of April, 1775, and the second General Congress met at Philadelphia, on the 10th of May, 1775. Like the first Congress, it was a voluntary assembly—without legal existence or political power. Being involved in war, the people flew to arms, in all parts of the country, and the Colonial Legislatures raised troops, provided for organizing and arming the militia, and made prepa-

rations for war, collected a continental army at Boston, and put it under the charge of Congress. In June, of that year, Congress appointed George Washington commander-in-chief of the American armies, and appointed also many other military officers, who entered upon the duties of their respective offices; and from that time forth, and by the general consent and acquiescence of the colonial legislatures and of the people of the several colonies, Congress exercised extensive legislative powers in relation to the war; and by means of committees and officers of its appointment, it exercised, also, very large executive powers. Without any compact of Union, there was a confederacy de facto of the colonies; and Congress, by general consent, assumed and exercised the powers of a government de facto.

Congress appointed embassadors to France, Spain, Holland, and other foreign courts, and in January, 1778, negotiated treaties of alliance, commerce, and navigation with France, and procured many munitions of war, and a fleet and army to aid them in prosecuting the war. The people and the continental legislatures nobly responded to the recommendations and calls of Congress, and supported the war in the firm belief, that an imperative necessity required them to do so; for Congress had no power to compel them; no power to levy taxes, and no power to raise troops by draft, conscription or compulsion. They had no resources but paper money, and the voluntary contributions of men, of money, and munitions of war, and supplies by the colonial legislatures. With such uncertain means they carried on the war for several years, fought numerous battles, and achieved many victories, including the great and glorious victory over Gen. Burgoyne, at Saratoga, in October, 1777.

Such was the state of things until March, 1781, until after the articles of confederation had been adopted by all the States. The articles of confederation were drawn up, discussed in Congress, and agreed upon in December, 1777, but they did not go into effect until they had been approved and ratified by the legislatures of all the colonies, and signed by their delegates in Congress. They were signed by the delegates from the colonies of Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Virginia, North Carolina, South Carolina and Georgia, in July, 1778; by the delegates from New Hampshire, in August of the same

year; by the delegation from New Jersey, in November of that year; by the delegates from Delaware, in February and March, 1779; and by the delegates from Maryland, March 1, 1781, after which they took effect.

ARTICLES OF CONFEDERATION.

To all to whom these presents shall come.

We, the undersigned, delegates from the States affixed to our names, send greeting:

Whereas, the delegates of the United States of America, in Congress assembled did, on the 15th day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the independence of America, agree to certain articles of confederation and *perpetual union* between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz:

Articles of confederation and *perpetual union* between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

Art. 1. The style of this confederacy shall be, "The United States of America."

Art. 2. *Each state retains its sovereigntg, freedom, and independence*, and every power, jurisdiction and right, whch is not by this confederation expressly delegated to the United States in congress assembled.

Art. 3. The said states hereby severally enter into a firm league of friendship with each other for the common defence, the security of their liberties, and their mutual and general welfare; binding themselvs to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretext whatever.

Art. 4. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this

union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state, of which the owner is an inhabitant; provided, also, that no imposition, duties, or restriction, shall be laid by any state on the property of the United States, or either of them.

If any person guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon the demand of the governor, or executive power of the state from which he fled, be delivered up, and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

Art. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No state shall be represented in congress by less than two nor more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding an office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress; and the members of congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from and attendance on congress, except for treason, felony, or breach of the peace.

Art. 6. No state, without the consent of the United States in congress assembled, shall send an embassy to, or receive an embassy from, or enter into any conference, agreement, alliance, or treaty with, any king, prince, or state; nor shall any person holding any office of profit or trust under the United States or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in congress assembled, specifying accurately the purpose for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace, by any state, except such number as shall be deemed necessary by the United States in congress assembled, for the defence of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as, in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and and accoutred, and shall provide and have constantly ready for use, in public stores, a number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war without the consent of the

United States in congress assembled, unless such states be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, or letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for the occasion, and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

Art. 7. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment.

Art. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in congress assembled.

Art. 9. The United States in congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in cases mentioned in the sixth article: of sending and receiving embassadors: entering into treaties and alliances; pro-

vided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imimposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever: of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated: of granting letters of marque and reprisal, in times of peace: appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures; provided, that no member of congsess shall be appointed a judge of any of the said courts.

The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that may hereafter arise, between two or more states, concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties, by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as congress shall direct, shall in the presence of congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always a major part of the judges, who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the day appointed,

without showing reasons which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive, the judgment or sentence, and other proceedings, being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior courts of the state, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward;" provided also, that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more states, whose jurisdiction as they may respect such lands and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States: regulating the trade and managing all affairs with Indians not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated: establishing and regulating post-offices from one state to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite

to defray the expenses of the said office: appointing all officers of the land forces in the service of the United States, excepting regimental officers: appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States: making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in congress assembled shall have authority to appoint a committee to sit in the recess of congress, to be denominated "a committee of the states;" and to consist of one delegate from each state, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States, under their direction: to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years: to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses: to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted: to build and equip a navy: to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in each state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled: but if the United States in congress assembled, shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped, in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot safely be spared out of the same; in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can safely be spared. And the officers

and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled.

The United States in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in congress assembled.

The congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secresy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Art. 10. The committee of the states, or any nine of them, shall be authorized to execute in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine states, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the United States assembled is requisite.

Art. 11. Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this union: but no other colony

shall be admitted into the same unless such admission be agreed to by nine states.

Art. 12. All bills of credit emitted,* moneys borrowed, debts contracted, by or under the authority of congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

Art. 13. Every state shall abide by the determination of the United States in congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and *the union shall be perpetual;* nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislature of every state.

And whereas it has pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in congress, to approve of and to authorize us to ratify the said articles of confederation and perpetual union: KNOW YE, That we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress assembled, on all questions which, by the said confederation, are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual.

In witness whereof, we have hereunto set our hands, in congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

On the part and behalf of the state of New Hampshire.

Josiah Bartlett, John Wentworth, jun., Aug. 8, 1778.

* The bills of credit here referred to were the issues known as Continental money.

On the part and behalf of Massachusetts Bay.

John Hancock,
Samuel Adams,
Elbridge Gerry,
Francis Dana,
James Lovell,
Samuel Holton.

On the part and behalf of the state of Rhode Island and Providence Plantations.

William Ellery,
Henry Merchant,
John Collins.

On the part and behalf of the state of Connecticut.

Roger Sherman,
Samuel Huntington,
Oliver Wolcott,
Titus Hosmer,
Andrew Adams.

On the part and behalf of the state of New York.

Jas. Duane,
Fra. Lewis,
Wm. Duer,
Gouv. Morris.

On the part and behalf of the state of New Jersey.

Jno. Witherspoon,
Nath. Scudder, Nov. 26, 1778.

On the part and behalf of the state of Delaware.

Tho, M'Kean, Feb. 13, 1779.
John Dickinson, May 5, 1779.
Nicholas Van Dyke.

On the part and behalf of the state of Maryland.

John Hanson, March 1, 1781.
Daniel Carroll, March 1, 1781.

On the part and behalf of the state of Virginia.

Richard Henry Lee,
John Banister,
Thomas Adams.
Jno. Harvie,
Francis Lightfoot Lee.

On the part and behalf of the state of North Carolina.

John Penn, July 21, 1778.
Corns. Harnett,
Jno. Williams.

On the part and behalf of the state of South Carolina.

Henry Laurens,
William Henry Drayton,
Richard Hutson,
Thas. Heywood, jun.

On the part and behalf of the state of Georgia.

Jno. Walton, 24th July, 1778.
Edwd. Telfair.
Edwd. Langworthy.

NOTE.—These articles of confederation did not take effect until March, 1781, after all the states had approved and signed them. They continued in force until the 4th day of March, 1789, when the constitution of the United States took effect.

SEC. 11. ACTION OF THE COLONIES AND OF CONGRESS. FORMATION OF STATE GOVERNMENTS.

The revolutionary movement was commenced in 1774, when the colonies sent delegates to the first continental congress, which met at Philadelphia, the 5th of September. It was a voluntary convention of delegates; some of whom were appointed by public meetings and informal conventions of the people, and some of them by the legislatures of the several colonies. They met to confer together, in relation to the common interests, and the common dangers of the colonies.

The information of the passage, by the British parliament, of the Boston Port Bill, and other arbitrary measures, received in America in May, 1774, caused a storm of excitement in all the colonies from New Hampshire to South Carolina. Public meetings were immediately held in the principal cities, committees of correspondence appointed, and correspondence opened between the patriots of the several colonies. There was an association in the City of New York, known as the "Sons of Liberty," who, in a letter to a committee in Boston, first suggested the idea of a general congress. Similar suggestions were made about the same time, (May 17th and 20th), by public meetings in the cities of Providence and Newport. The Connecticut legislature being then in session, passed a series of resolutions, in which they condemned the arbitrary and oppressive acts of parliament, and recommended a continental congress; but fixed no time nor place for holding it. Spirited meetings were held also in New Hampshire, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina; strong resolutions were passed, and committees of correspondence appointed.

On the 7th of June, 1774, the colonial legislature of Massachusetts, known as the General Court, passed a series of resolutions, recommending an entire abstinence from the use of all British goods, and of all articles subject to duties imposed by parliament. They also adopted a resolution that "a meeting of committees from the several colonies on this continent is highly expedient and necessary, to consult upon the present state of the country, and the miseries to which we are and must be reduced by the operation of certain

acts of parliament; and to deliberate and determine on wise and proper measures to be recommended to all the colonies for the recovery and re-establishment of our just rights and liberties, civil and religious, and the restoration of union and harmony between Great Britain and America, which is most ardently desired by all good men." September the first was designated as the time, and Philadelphia the place, of meeting. Thomas Cushing, James Bowdoin, Samuel Adams, John Adams, and Robert Treat Paine, were thereupon chosen delegetes. On being informed of the proceedings, the colonial Governor, (Gage), sent the provincial Secretary to adjourn the court.

On the third of June, the legislative assembly of Connecticut authorized the appointment of a delegation to a general congress; and they were appointed soon afterwards by the committee of correspondence.

On the fifteenth of June, the legislative assembly of Rhode Island appointed delegates.

Delegates to the general congress were appointed for the colony of New Hampshire, by a convention of delegates, which met at Exeter on the eighth of June. Delegates were appointed for the colonies of Maryland and New Jersey by similar conventions, in June and July, of the same year.

In the City of New York, a poll was opened by the mayor and aldermen, and five delegates to the general congress were elected by the people, on the 28th of July. The delegates so chosen were adopted by public meetings in the City of Albany, and some towns in Dutchess and West Chester counties. The counties of Orange, Kings, and Suffolk, severally sent delegates.

Delegates to congress were appointed by the colonial legislature of Pennsylvania, on the 21st of July; and by the legislature of Delaware on the 1st of August.

A convention of delegates from many of the counties of Virginia, appointed delegates to the continental congress on the 1st of August; and a similar convention assembled at Newbern, on the 25th of August, appointed delegates to represent the colony of North Carolina.

A public meeting held at Charleston, July 6th, attended by persons from all parts of the province, appointed delegates to represent South Carolina in the first continental or general congress. The in-

fluence of Gov. Wright prevented the appointment of any delegates for Georgia.

The first congress, among other measures, adopted an address to the people and a petiton to the King and parliament of Great Britain, for a redress of grievances. Very few, if any, at that time, entertained ideas of the independence of the colonies.

The time of the first congress and the most of the first session of the second congress, was taken up in consultation, in defending, and affirming their rights, and in memorializing the British government and people to respect their rights and redress their wrongs. But in the pride and consciousness of power, the government of the mother country disregarded the appeals and the natural and civil rights of the colonies, resolved to reduce them to submission by military force, and sent fleets and armies to effect their selfish purposes.

The war of the revolution commenced April, 1775; the most of the royal governors were soon after driven from the seats of government of the several colonies, and the colonial governments virtually dissolved.

The provincial legislatures of Massachusetts, New York, and some other colonies, appointed committees of their own members, to exercise the executive powers of the colony in place of the royal Governors, until their difficulties with the mother country might be settled. But some of the colonies were for some time without any government, after the royal governors had fled or been driven from the seat of government. New Hampshire being without a government, her delegates, on the 18th of October, 1775, asked the general congress to sanction the institution of a government by the people, for themselves, as the only means of preventing anarchy and confusion; and yet the majority of the members of congress, still dreaming of conciliation, hesitated to recommend such a proceeding. But the first of November brought over the King's proclamation, and information that the colonies were threatened with more troops and ships of war, and with more severe coercive measures.

On the 3d of November, congress took action upon the subject, and resolved, "That it be recommended to the provincial convention of New Hampshire, to call a full and free representation of

the people, and that the representatives, if they think it necessary, establish such a form of government, as, in their judgment, will best produce the happiness of the people, and most effectually secure peace and good order in the province, during the continuance of the present dispute between Great Britain and the colonies." The same advice was given to South Carolina the next day, on a similar application.

Virginia being also without an executive government, and Lord Dunmore, the late royal governor, having issued a proclamation to the royalists and slaves, and being engaged in collecting troops and stores to make war on the people, congress, on the 4th of December, invited the people to institute a government for themselvs.

A provincial convention of delegates elected by the people of New Hampshire, in accordance with the recommendation of congress, met on the 5th of January, 1776, adopted an organic law, as an addition or amendment to the royal charter, and organized a provisional government for the colony, as near as practicable in accordance with the charter, without any governor. They provided for a council of twelve to act as a senate or second branch of the legislature, and also as the supreme executive during its sessions; at other times the executive power was exercised by a committee of public safety, over which the president of the council presided.

The first constitution for the state was adopted in 1784.

Early in February, 1776, a convention of delegates from the several parishes and districts of South Carolina met in convention, and on the 26th of March, adopted for the state, the first American constitution ever established; in which provision was made for the election of a chief executive officer, called president of the state. The president, a vice president, the judges of the supreme and other courts, and various other officers, were to be elected by the legislature. On the 27th, John Rutledge was chosen president, Harvey Laurens, vice president, and William Harvey Drayton, chief justice. On the following day, (March 28th), the oaths of office were administered to the new officers, and the state government formally organized.

On the 4th of May, 1776, the general assembly of Rhode Island passed an act by which they declared the inhabitants of that colony discharged from all allegiance to the King of Great Britain. This

was equivalent to a declaration of independence. As the freemen of the colony were authorized by the charter, to choose, annually, a governor, magistrates, and representatives to form a colonial legislature, no change in the government was necessary; and the people continued to live under the charter until 1842, when they framed their first state constitution. The assembly immediately authorized its delegates in congress to join in a treaty with any prince, state, or nation, for the security of the colonies. It also directed them to favor measures for the strictest union of the colonies; yet at the same time, they were charged "*to secure to the colony, in the strongest and most perfect manner, its present established form, and all powers of government, so far as they relate to its internal police, and the conduct of its own affairs, civil and religious.*" Here are the principles of state rights, and of the local sovereignty and independence of the states, very clearly expressed.

On the 6th of May, 1776, about 130 delegates, elected by the people of the several counties of Virginia, in accordance with the recommendation of congress and the colonial legislature, comprising the ablest men in the colony, met in convention to form a state coustitution. On the 12th of June, the convention adopted unanimously, a declaration or bill of rights, and on the 29th of the same month, they adopted, also unanimously, a constitution for the state. Having resolved themselves into a temporary general assembly, they elected Patrick Henry, governor. They also elected a privy council, and immediately organized the state government.

On the 10th of May, 1776, congress passed a resolution, recommending that the several colonies form governments for themselves. This was of itself almost equivalent to a declaration of independence. Congress, at the same time, appointed John Adams, of Massachusetts, Edward Rutledge, of South Carolina, and Richard Henry Lee, of Virginia, to prepare a suitable preamble to the resolution. The committee reported a preamble which was adopted by congress, on the 15th of May, after a spirited debate. The preamble and resolutions were as follows:

Whereas his Britanic majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of parliament, excluded the inhabitants of these united colonies from the protection of his crown. And whereas, no answer whatever, to the

humble petition of the colonies for redress of grievances and reconciliation with Great Britain, has been, or is likely to be given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies. And whereas it appears absolutely irreconcilable to reason and good conscience, for the people of these colonies, now to take the oaths and affirmations necessary for the support of any government under the crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said crown, should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies, for the preservation of internal peace, virtue and good order, as well as for the defence of our lives, liberties, and properties, against the hostile invasions and cruel depredations of our enemies: Therefore,

Resolved, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigences of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.

Connecticut was more fortunate than most of the colonies. She had no royal governor. Her charter, granted by King Charles II, in 1662, was truly republican in its character. It provided for the election, by the freemen of the colony, of a governor, depnty governor, twelve assistants, councilors, or senators, and two deputies from each town, as a legislative assembly. Being very general and liberal, and conferring very large powers, no change was necessary to accommodate it to the revolution. Jonathan Trumbull was annually elected governor from 1769 to 1784, and entered with much spirit into the revolutionary movement. The people of Connecticut lived under the royal charter, without change, until the year 1818, when they formed their first state constitution.

On the 14th of June, 1776, the legislative assembly of Connecticut instructed their delegates in congress to propose to that body to "declare the united American colonies free and independent states, absolved from all allegiance to the King of Great Britain."

On the 14th of June, the legislative assembly of Delaware approved the resolution and preamble of congress, of May 15th,

overturned the proprietory government, adopted an organic law or constitution, and established a government for the state.

A revolutionary committee of public safety called a convention of delegates of the people of Maryland, which assembled on the 21st of June, 1776. It took prompt measures for calling the militia into actual service, concurred with Virginia on the subject of independence, treaties with foreign powers, and a confederation of the colonies—reserving to each the internal government of its own affairs and people. Early in July it directed the election of delegates to a new couvention, to form a constitution and establish a new government for the colony. The constitutional convention was elected, convened, and formed a constitution for the state, under which the first election was held in December following.

A new provincial congress or couvention for New Jersey, elected by the people, in conformity to the recommendation of the general congress of May 15th, assembled at Burlington, June 11th, 1776. On the 22d, the convention "resolved that a government be formed for regulating the internal police of the colony, pursuant to the recommendation of the continental congress." The convention immediately elected to the general congress, five delegates friendly to independence. The convention also framed, and on the 2d of July adopted and signed a constitution for the state; under which elections for members of both houses of the legislature provided for in it, were held immediately. The legislature assembled, organzed, and on the 29th of August, 1776, elected William Livingston governor. They also elected other officers, and fully organized a state government. That constitution continued in force and unaltered, until the year 1844, when a new one was formed and adopted.

On the 18th of June, 1776, a convention of delegates from the City of Philadelphia, and the several counties Pennsylvania, met in conference at Philadelphia, organized, and proceeded to form a constitution for the colony, as an independent state. They soon formed and adopted a state constitution, under which elections were held in many of the counties, and the legislative assembly met on the 28th of November, but in consequence of the violent opposition to it, many of the counties omitted to elect counsellors, and the assembly was obliged to adjourn without organizing the

government. The delinquent counties afterwards elected counsellors, and the new government was organized on the 4th of March, 1777, and Thomas Wharton, Jr., was elected president, and George Bryan, vice president. That constitution continued in force until 1790.

In conformity to the recommendation of congress, the people of the several counties of North Carolina proceeded and elected delegates to a provincial convention, which met at Halifax, on the 12th of November, 1776. On the 17th of December, the convention adopted and signed a declaration of rights, and on the day following, a constitution for the state of North Carolina. The convention also proceeded and elected Richard Caswell, governor, and organized a state government.

On the 31st of May, 1776, the congress or assembly of the colony of New York, adopted a preamble, in which they recited the preamble and resolution of the general continental congress, of May 15th, and also passed a resolution, recommending that the electors of the several counties of the colony proceed without delay to elect delegates to a convention, to take into consideration the necessity and propriety of instituting such new government, as in and by the said resolution of the continental congress, is described and recommended. Delegates were elected, a convention assembled, and a constitution for the state, was agreed upon and adopted by the convention, at Kingston, on the 20th of April, 1777. The following preamble prefixed to the constitution, shows the necessity for it, and the *system of government by congress and committees*, which had previously existed—the executive powers of the government being vested in committees, for want of a governor.

Whereas the many tyrannical and oppressive usurpations of the king and parliament of Great Britain, on the rights and liberties of the people of the American colonies, had reduced them to the necessity of introducing a government by congress and committees, as temporary expedients, and to exist no longer than the grievances of the people should remain without redress.

And whereas the congress of the colony of New York, did, on the thirty-first day of May, now last past, resolve as follows, viz;

Whereas the present government of this colony, by congress and committees, was instituted while the former government, under the

crown of Great Britain, existed in full force, and was established for the sole purpose of opposing the usurpation of the British parliament, and was intended to expire on a reconcilation with Great Britain, which it was then apprehended would soon take place, but is now considered as remote and uncertain.

And whereas many and great inconveniences attended the said mode of government by congress and committees, as of necessity, in many instances, legislative, judicial and executive powers have been vested therein, especially since the dissolution of the former government, by the abdication of the late governor, and the exclusion of this colony from the protection of the king of Great Britain.

That constitution continued in force until 1821, and was in some respects the best of all the American constitutions.

A constitution for Georgia was adopted, and a state government organized, in 1777.

The first constitution of Massachusetts was adopted in 1780. The executive powers of the colony and state were exercised by the council and legislative committees, as they were in New York, for more than five years.

SEC. 12. ACTION OF THE GOVERNMENT, AND CONDITION OF THE COUNTRY UNDER THE ARTICLES OF CONFEDERATION.

The government went into operation under the articles of confederation, in March, 1781, and four executive departments were soon organized under it, each with a secretary at its head,—called the departments of Foreign Affairs, War, Marine, and Finance. Administrative duties had been previously performed by committees of congress, and by boards of commissioners established by congress, and the President of congress had represented the sovereignty of the nation. The organization of executive departments gave the confederation more the form of a regular government; but congress had no more power under it, than they had exercised by common consent during a period of six years.

Congress had no power of taxation, no powers over commerce and navigation, and very little credit. Bills of credit and treasury certificates to the amount of more than two hundred millions of dollars, had been issued and had supported the government and

enabled it to carry on the war several years; but they had depreciated to almost nothing, and became nearly worthless. Georgia had been overrun by British troops, subdued, and the royal government re-established. Charleston had been taken, a large portion of the Carolinas had been subdued, and all the colonies were greatly exhausted; the people had become disheartened, the government and the whole country were on the verge of bankruptcy, and nothing but the aid of France, Spain, and Holland, finally saved the United States from British conquest and dominion.

Spain became involved in the war against Great Britain, June, 1779, and Holland in December, 1780. The aid of these powers and of France, assisted in keeping up the drooping spirits of the Americans, and to prolong the contest, until the capitulation of Cornwallis, at Yorktown, in Virginia, in October, 1781. The war was long, expensive, and exhausting to the British government and people, as well as to the Americans. A series of reverses termininating in the great victory over Cornwallis, disheartened the British government and people from the further prosecution of the war, and that subsequently put an end to the struggle. Negotiations for peace were entered upon a few months afterwards, and a preliminary treaty of peace signed, November 30, 1782.

The articles of confederation were in force eight years, from March, 1781, until the government was organized and went into effect under the constitution, on the 4th of March, 1789. But the people of the United States were greatly disappointed in their expectations of the efficiency of the government under them. The government was crippled and powerless in several particulars. It had no power over commerce and navigation, and no power of taxation, and was entirely dependent on the states for revenues—without any power to coerce the state governments to answer the requisitions of congress to pay their respective portions of the national expenses and the national debt.

The levy of duties on foreign goods and products imported into a country, has been the easiest, and most advantageous and efficient mode of taxation and of raising national revenues, of any system ever devised. It has been one of the principal modes of raising revenue adopted and in use among the nations of Europe during the last two hundred years. It is the system of taxation

which has furnished nearly all the revenues for the support of our national government, since the year 1789; and it has contributed largely to the prosperity of the country, by incidentally encouraging and promoting mechanical, manufacturing, and mining industry, and domestic industry of all kinds. Under the confederation, congress had no such powers, and enjoyed no such advantages. Each state regulated foreign commerce for itself, and levied duties for its own benefit. Commercial strife between the states grew up immediately on the return of peace. Each state levied low duties to invite commerce to its own sea-ports. The object was to attract and increase commerce, and not to foster domestic industry. The advantages of the latter seemed to be entirely lost sight of, by the most of our public men of that day.

Each state retaining the whole taxing power, and the power to regulate foreign as well as domestic commerce, the states were independent of each other and of the confederate government upon all such subjects. The states on the sea-board could and did levy duties for their own exclusive benefit, on imported goods finally sold to, and consumed in, the interior agricultural states. This was taxing the people of one state for the benefit of those of another —which was clearly unjust, but unavoidable under the system of government then existing. The system itself occasioned a multiplicity of different laws, and different rates of duty in the several states—each state striving to promote the interests of its own people—and all the states competing with each other, to encourage commerce to their respective ports. The effect was great commercial strife and confusion; generally very low duties, large imports in proportion to the ability of the people to pay; and the debt of the country for foreign goods and products was increased and rolled up, until the credit of the merchants and the people became exhausted, and imports were checked by that cause alone. Many small furnaces, forges, and factories, for the manufacture of pig and bar iron, edge tools, and cloth of various kinds, had sprung up during the war, and having then the entire command of the home market, they had flourished; but were soon ruined and their operations suspended, when the markets were supplied and glutted by foreign goods of a similar character.

The states and the people of all classes were deeply involved in debt, and greatly impoverished by the war, and the depreciation and utter worthlessness of the continental money. Under the discordant system adopted by the several states of regulating commerce and encouraging foreign imports, on the return of peace, the country was immediately flooded with foreign goods; the debts of the people and of the merchants were greatly increased; the infant manufactures of the country which had grown up during the war were deprived of their domestic markets, and soon utterly prostrated; and the industry of the people of all the states was more or less paralized. Hence peace brought no relief to the people; and the country was nearly as much exhausted during the seven year's peace, under the articles of confederation, as by the previous seven year's war. It was more prostrated in its industry and condition in 1789, than it was in 1782, and much more weighed down with debt.

Sec. 13. Reasons for forming the constitution of the United States.

The commercial and financial embarrassments of the country, and the conflicting laws of the several states upon the subject of commerce, entirely satisfied the people of the utter inefficiency of the government under the articles of confederation, to answer the purposes for which it was established. They were the principal causes, more potent than all others, which satisfied the people of the necessity of conferring on congress unlimited powers of taxation, for the purpose of carrying on the government, and also power to regulate foreign commerce, and commerce between the states. They were the principal, and almost the only causes which induced the calling of a national convention, and the formation and adoption of the present constitution of the United States. With these exceptions, and power over the militia, the constitution confers on congress no more powers than the articles of confederation did. This the reader will see, by comparing the two carefully together. By adding these powers to the powers held by congress under the confederation, and creating a national judiciary, and a chief national executive officer, the convention established in connection with the state governments, the most perfect government ever formed upon the earth.

The union was intended to be perpetual, as appears by the preamble to the articles of confederation, and the 13th article thereof. The constitution was intended to establish a more perfect union, and a stronger and more complete government than the confederation.

CONSTITUTION OF THE UNITED STATES.

PREAMBLE.

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I.

Of the Legislature.

SECTION I.

1. All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION II.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several states; and the electors of each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

2. No person shall be a representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabtant of that state in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the

United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three; Massachusetts eight; Rhode Island and Providence Plantations one; Connecticut five; New York six; New Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North Carolina five; South Carolina five; and Georgia three.

4. When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill up such vacancies.

5. The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment,

SECTION III.

1. The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years, and each senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth, and the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a president pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United Siates is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in case of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SECTION IV.

1. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the place of choosing senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION V.

1. Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

2. Each House may determine the rule of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House, on any question, shall at the desire of one-fifth of those present, be entered on the journal.

4. Neither House during the session of Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION VI.

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time, and no person holding any office under the United States shall be a member of either House during his continuance in office.

SECTION VII.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objection at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall

be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except a question of adjournment,) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION VIII.*

The Congress shall have power—

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.:

2. To borrow money on the credit of the United States.

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the United States:

7. To establish post offices and post roads:

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries:

9. To constitute tribunals inferior to the Supreme Court:

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

* This is mostly a transcript of the various clauses of Article 9, of the old confederation.

13. To provide and maintain a navy:

14. To make rules for the government and regulation of the land and naval forces:

15. To provide for calling forth the militia to execute the laws of the Union, surpress insurrections, and repel invasions:

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square), as may, by cession of particular states and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings: and,

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or any department or officer thereof.

SECTION IX.

1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or ex-post-facto law, shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor

shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

6. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the consent of Congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SECTION X.

No state shall enter into any treaty, alliance, or confederation; grant letters of marque or reprisal; coin money; emit bills of credit; make anything but gold or silver coin a tender in payment of debts; pass any bill of attainder, ex-posto-facto law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of Congress. No state shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will admit of no delay.

ARTICLE II.

Of the Executive.

SECTION I.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice President, chosen for the same term, be elected as follows:

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in Congress; but no senator or representative, or person holding any office of trust or profit under the United States, shall be appointed an elector.

3. [The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate, shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by states; the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.]*

4. The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural-born citizen, or citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-

* The 12th amendment is a substitute for this paragraph.

five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President; and the Congress may by law provide for the case of removal, death' resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President: and such officer shall act accordingly, until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

SECTION II.

1. The President shall be commander-in-chief of the army and navy of the United States and of the militia of the several states, when called into the actual service of the United States; he may require the opinion in writing of the principal officers in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur: and he shall nominate, and by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior offi

cers as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECTION III.

1. He shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall deem necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive embassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION IV.

1. The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Of the Judiciary.

SECTION I.

1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, order and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION II.

1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all

cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maratime jurisdiction; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and between a state, and the citizens thereof, and foreign states, citizens or subjects.

2. In all cases affecting embassadors, other public ministers, and consuls, and those in which the state shall be a party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as Congress may by law have directed.

SECTION III.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court.

2. Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

Miscellaneous.

SECTION I.

1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effects thereof.

SECTION II.

1. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

3. No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION III.

1. New states may be admitted by Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of Congress.

2. Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property belonging to the United States, or of any particular state.

SECTION IV.

1. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

Of Amendments.

2. Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of

the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner effect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

Miscellaneous.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

3. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office, or public trust, under the United States.

ARTICLE VII.

Of the Ratification.

1. The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in Convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,
President, and Deputy from Virginia.

New Hampshire.

John Langdon, Nicholas Gilman.

Massachusetts.

Nathaniel Gorman, Rufus King.

Connecticut.

William Samuel Johnson, Roger Sherman.

New York.

Alexander Hamilton.

New Jersey.

William Livingston, William Patterson,
David Brearly, Jonathan Dayton.

Pennsylvania.

Benjamin Franklin, Thomas Fitzsimmons,
Thomas Mifflin, Jared Ingersoll,
Robert Morris, James Wilson,
George Clymer, Governeur Morris.

Delaware.

George Read, Richard Bassett,
Gunning Bedford, Jun., Jacob Broom.
John Dickinson,

Maryland.

James M'Henry, Daniel Carroll.
Daniel of St. Tho. Jenifer,

Virginia.

John Blair, James Madison, Jr.

North Carolina.

William Blount, Hugh Williamson.
Richard Dobbs Spaight,

South Carolina.

John Rutledge, Charles Pinckney,
Chas. Cotesworth Pinckney, Pierce Butler.

Georgia.

William Few, Abraham Baldwin.

Attest, WILLIAM JACKSON, *Secretary.*

SEC. 14. THE ADOPTION OF THE CONSTITUTION, AND THE AMENDMENTS THERETO.

On the same day the Constitution was passed, and signed by the members of the convention, the following resolutions were passed, and the Constitution was transmitted to Congress, with the accompanying letter, signed by the President of the convention.

In Convention, Monday, September 17, 1787. Present, the states of New Hampshire, Massachusetts, Connecticut, Mr. Hamilton, from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia:

Resolved, That the preceding Constitution be laid before the United States in congress assembled, and that it is the opinion of this convention, that it should afterwards be submitted to a convention of delegates, chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each convention assenting to, and ratifying the same, should give notice thereof to the United States in congress assembled.

Resolved, That it is the opinion of this convention, that as soon as the conventions of nine states shall have ratified this constitution, the United States in congress assembled should fix a day on which electors should be appointed by the states which shall have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under the constitution. That after such publication, the electors should be appointed, and the senators and representatives elected. That the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed and directed, as the constitution requires, to the Secretary of the United States in congress assembled. That the senators and representatives should convene at the time and place assigned. That the senators should appoint a President of the Senate, for the sole purpose of receiving, opening, and counting the votes for President; and, that after he shall be chosen, the congress, together with the President, should, without delay, proceed to execute this constitution.

By the unanimous order of the convention.

GEORGE WASHINGTON, *President.*

WILLIAM JACKSON, *Secretary.*

In Convention, September 17, 1787.

Sir: We have now the honor to submit to the consideration of the United States in congress assembled, that constitution which has appeared to us the most advisable.

The friends of our country have long seen and desired, that the power of making war, peace, and treaties; that of levying money, and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the general government of the Union: But the impropriety of delegating such extensive trusts to one body of men is evident. Hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all: Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion, this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed upon our minds, led each state in the convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the constitution, which we now present, is the result of a spirit of amity, and of the mutual deference and concession which the peculiarity of our political situation rendered indispensible.

That it will meet the full and entire approbation of every state, is not perhaps to be expected; but each will doubtless consider, that had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected,

we hope and believe; that it may promote the lasting welfare of that country dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect, we have the honor to be, sir, your Excellency's most obedient and humble servants,

GEORGE WASHINGTON, *President.*

By unanimous order of the convention.

To His Excellency, THE PRESIDENT OF CONGRESS.

In accordance with the recommendation of the national convention, the legislatures of all the states, except Rhode Island, at their next sessions, severally passed acts, calling conventions for their respective states, to be composed of delegates to be chosen by the electors thereof, and providing for the election of the delegates, and the times and places of holding the several conventions. Delegates were thereupon chosen in each of the twelve states, and a state convention assembled therein, to consider the proposed constitution, and to approve and adopt the same, in behalf of the people of the state, or to reject it.

There was very great difference of opinion in the country, among the people, and among the delegates to the several state conventions, as to the policy of adopting the constitution, or continuing under the articles of confederation. Many feared that the new government, if adopted, would over-ride and crush state rights and the state governments, and tend to consolidation, national despotism over both states and individuals, and lead to corruption, gross abuses, and tyranny. While the question was pending, a series of articles were written by Alexander Hamilton, James Madison, and John Jay, published in newspapers in the City of New York, and from thence copied into many other papers and published in the several states, explaining the various provisions of the Constitution. These articles were afterwards collected and published in books, and are known as the Federalist. They laid the principal corner-stones of American constitutional law, turned the scale in favor of the Constitution, and secured its adoption—when it is probable that it would otherwise have been rejected.

The opposition to its adoption in many of the states, and particularly in New York, Virginia, North Carolina and Rhode Island,

was violent, and the debates in convention were long and warm. It was to go into effect when adopted by nine states, leaving the other states to act independently by themselves, either under the articles of confederation, or separately. The legislature of Rhode Island submitted it to the electors of the several towns, to pass upon in town meetings, and a majority of the towns rejected it. The convention of North Carolina unanimously adopted it—but on condition that numerous amendments should be made, which was treated as a rejection of it. It was approved and ratified by the other states, in their conventions, as follows, to wit: by Delaware, December 7th, 1787; by Pennsylvania, December 12th; by New Jersey, December 18th; by Georgia, January 2d, 1788; by Connecticut, January 9th; by Massachusetts, February 7th; by Maryland, April 28th; by South Carolina, May 25th; by New Hampshire, June 21st; by Virginia, June 26th; and by New York, July 26th, 1778.

Eleven states having approved and ratified the Constitution, Congress met in the City of New York and passed the following preamble and resolution:

In Congress, Saturday, Sept. 13, 1788.

On the question to agree to the following proposition, it was resolved in the affirmative, by the unanimous votes of nine states, viz: of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, South Carolina, and Georgia.

Whereas, the convention assembled in Philadelphia, pursuant to the resolution of congress of the 21st February, 1787, did, on the 17th day of September, in the same year, report to the United States in congress assembled, a consttiution for the people of the United States; whereupon, congress, on the 28th of the same September, did resolve unanimously, "That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the convention made and provided in that case;" and whereas, the constitution so reported by the convention, and by congress transmitted to the several legislatures, has been ratified in the manner therein declared to be sufficient for the establishment of the same, and such ratifications, duly authenticat-

ed, have been received by congress, and are filed in the office of the secretary: therefore,

Resolved, That the first Wednesday in January next, be the day for appointing electors in the several states, which before the said day shall have ratified the said constitution; that the first Wednesday in February next, be the day for the electors to assemble in their respective states, and vote for a president; and that the first Wednesday in March next, be the time, and the present seat of congress the place, of commencing proceedings under the said constitution.

Presidential electors were accordingly chosen, George Washington was elected president, and John Adams, vice president; senators and members of congress were also elected for the several states, and the government was organized in March, 1789, and went into operation in and over the eleven states that had approved and ratified the constitution, leaving Rhode Island and North Carolina to govern themselves as sovereign and independent states.

Congress proceeded immediately to pass laws to establish and organize the executive and judicial departments of the government —to provide for a department of state, finance, war, navy, and post office department—and passed laws to regulate foreign commerce and navigation, and the coasting trade, and to impose duties on tonnage and foreign imports. In all their acts, Congress necessarily regarded and treated North Carolina and Rhode Island as independent and foreign states, not subject to the constitution and laws of the United States, nor entitled to the benefits thereof. The action of Congress tended to alarm the people of those two states, and particularly the inhabitants of the cities, who were dependent upon commerce and navigation, and to bring them to a realizing sense of their isolated and helpless condition.

The legislature of North Carolina finally called a second convention, which approved and ratified the constitution of the United States, November 13th, 1789. In January, 1790, the legislature of Rhode Island passed an act calling a convention to take into consideration the federal constitution. When the convention met, it was ascertained that a majority of the members were opposed to the constitution—but doubting and hesitating upon the

subject, and wishing to witness its operation for a longer period, they adjourned the convention until May. The people, and particularly those engaged in commerce or navigation, felt very uneasy, and as Hildreth says, "The secession of the commercial towns of Providence and Newport, and indeed the partition of the whole state between Massachusetts and Connecticut, was openly talked of, as well in Rhode Island itself as in the neighboring States." On the assembling of the convention the constitution was finally approved and ratified on the 29th of May, 1790, by a majority of two votes. Members of the senate and house of representatives were soon after elected and took their seats in Congress, and Rhode Island was once more united with her sister states.

Many objected to the constitution because it contained no bill of rights—no such limitations of power as are prescribed in the great charter of King John, and other English Kings, and no such express reservation of power to the states as is contained in the second of the articles of confederation. To obviate these and many other objections, several of the state conventions, which ratified the constitution, proposed various amendments thereto, which were referred to a special committee of the first Congress, and on the coming in of their report, a preamble and resolution was adopted, and amendments proposed by Congress, which were afterwards adopted by the requisite number of states to become operative. They are as follows, to wit:

Congress of the United States, begun and held at the city of New York, on Wednesday, the 4th of March, 1789. The conventions of a number of the states having at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the government, will best insure the beneficent ends of its institution,

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both houses concurring, that the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States, all or any of which articles, when ratified by three-fourths of said legislatures, to be valid to all intents and purposes, as part of the said constitution, viz:

AMENDMENTS.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of a free people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law;* nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and dis-

* As to the meaning of the words "due process of law," in the 5th amendment, see the decision of the Supreme Court, in the case of Murray vs. Hoboken Land Comp, in 18th Howard's Rep., 272 and 276 to 280.

trict wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, when the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.*

[The following amendment was proposed at the second session of the third congress. It is printed in the laws of the United States, 1st vol., p. 73, as article 11.]

ARTICLE XI.

The judicial powers of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

* The 10th amendment, in its terms, limits the powers of the federal government within the several states, and not outside of their respective boundaries, nor in the territories. This is obvious from the nature of the federal and state governments, and also from the concluding words, "reserving power to the several states, or to the people thereof;" for the states, having granted to the national government all their power as sovereign and independent states, to declare and wage war, to make treaties, to acquire territory by conquest or treaty, and to legislate upon the subject of foreign commerce and navigation, they cannot legitimately exercise any power whatever beyond their respective limits.

[The three following sections were proposed as amendments at the first session of the eighth congress. They are printed in the laws of the United States as article twelve.]

ARTICLE XII.

1. The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice president: a quorum for the purpose shall

consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of president, shall be eligible to that of vice president of the United States.

The provision of the last amendment, allowing each state but one vote in case of an election by the house of representatives, is the worst feature in the constitution. It subverts the first principle of political justice, by making the votes of the small states equal to that of the large ones. If the election were by a joint convention of the two houses, each senator and representative having one vote, the relative vote of the several states would be the same as it is in the electoral college, full justice would be done to all, it would tend to a reasonable compromise and adjustment of sectional and partizan strifes and jealousies, and avoid the great objections now existing, to allowing the election of president to go to the house of representatives. It would be likely to lead to such re-adjustments of parties as frequently take place in the cabinet and parliament of Great Britain; and could hardly fail to produce harmony of action in congress, and harmony of feeling in our country.

CHAPTER II.

ELEMENTS, ORIGIN, AND DEVELOPEMENT OF THE SYSTEM OF LAWS, CONSTITUTIONS, AND GOVERNMENTS, BY WHICH THE RIGHTS AND LIBERTIES OF THE AMERICAN PEOPLE HAVE BEEN SECURED—THE SYSTEM HAVING BEEN FINALLY CONSUMMATED BY THE FORMATION AND ADOPTION OF THE CONSTITUTION OF THE UNITED STATES, THE ORGANIZATION OF THE NATIONAL GOVERNMENT UNDER IT, AND THE ADOPTION OF THE ORDINANCE OF 1787, FOR THE GOVERNMENT OF THE TERRITORIES THEN BELONGING TO THE UNITED STATES.

SEC. 1. THE ORIGIN AND CHARACTER OF THE AMERICAN CONSTITUTIONS AND BILLS OF RIGHTS.

The articles of confederation, firstly, and subsequently the federal constitution as a substitute for them, constituted, or was intended to constitute, so far as practicable, a permanent compact and bond of union between the states. They were also intended to constitute a part, and do constitute a part, of the constitution of each state—as much so, as if the federal constitution was copied therein at length. This is especially recognized by the 4th article of the bill or declaration of rights, forming a part of the constitution of Massachusetts, which is as follows, viz:

"The people of this commonwealth have the *sole and exclusive right of governing themselves, as a free, sovereign, and independent state;* and do, and forever hereafter shall exercise and enjoy *every power, jurisdiction, and right,* which is not, or may not hereafter be, by them *expressly delegated to the United States of America,* in congress assembled."

The 7th article of the bill of rights, forming a part of the constitution of New Hampshire, recognizes the government of the United States in nearly the same words. The people of each and every one of the states claimed the sole and exclusive right of governing themselves, as free, sovereign, and independent states, and of exercising and enjoying every power, jurisdiction, and right properly belonging to an independent state—except such powers as they had expressly granted to the national government, first by the articles of confederation, and lastly by the constitution of the United States.

To understand and construe correctly the constitution of the several states and of the United States, it is necessary to consider them together, and to consider also the declarations or bills of rights, forming parts of the state constitutions, which embody many of the principles and corner stones on which our dual system of government is based.

The first American constitution was framed by a convention of delegates of the colony of South Carolina, and adopted by the convention on the 26th of March, 1776. It contains no formal bill of rights—but the 8th and 9th articles thereof contain some of the most valuable elements of a bill of rights.

The first constitutional convention of Virginia, adopted on the 12th of June, 1776, the first formal American bill, or declaration of rights, which embodied the most of the elements of the bills of rights of all the other states. Some of the principles and provisions of the American bills of rights were borrowed from the magna carta of King John, and other great charters of the 13th century; some of them are from the petition of rights and acts of the parliament of Great Britain, in the time of Charles I. (1628 to 1649); some of them originated in England during the revolutionary period from 1685 to 1689; but many of them are of American origin.

The articles of amendment to the constitution of the United States numbered 1 to 8, inclusive, were taken from the constitutions and bills of rights of the states, and from magna carta of King John. The 10th article of the amendments thereto was taken from the 2d article of confederation—leaving out the explanatory part, which serves to illustrate its meaning, and to which the reader should

refer, to understand its meaning, and get a clear idea of the division of power between the national and state governments.

The state constitutions are generally comprehensive in their details, and arrangements for the formation of complete governments —extending to every proper subject of government except national, inter-national, and inter-state matters. The first constitutions of Pennsylvania and Vermont provided for only one legislative body and a council; but for many years past, the legislature of each state in the Union has consisted of two distinct houses, each of which must pass bills before they can become laws. Each state has also a governor or chief executive officer—a supreme court with appellate jurisdiction, inferior courts, and magistrates, codes of laws, and systems of jurisprudence, and all the machinery of county and city governments; and in the most of them, township governments also. All the machinery of government in each state applies to the same territory, to the same people, to the same property, as the constitution, government, and laws of the United States do; and each must be operated and executed within its proper sphere, without conflicting with the proper action of the other. Hence the importance of an accurate interpretation of the constitution of the United States, in order to ascertain with certainty the precise boundaries of power between the national and state governments, and prevent conflicts between them.

SEC. 2. THE GREAT ENGLISH CHARTERS OF KING JOHN, HENRY III. AND EDWARD I.

The liberties, personal rights, and rights of property, secured to the freemen of America, as well as to Englishmen, were derived through the great charters granted by Norman Kings. The Barons of England, in military array, and at the point of the sword, extorted the first great charter from King John at Runnymede, June, 1215. The same charter was confirmed in parliament by his son, King Henry III. with some additions. The same charter was afterwards confirmed by statute, called Confirmatio Cartarum, of 25th Edward I. (A. D. 1297), whereby the great charter is directed to be allowed as the common law. These charters, in fact, constituted the most essential portion of the British constitution, down to the time of the long parliament, in the time of Charles I. (1641).

The liberty and rights of the freemen of England, both as to person and property, were secured by those charters, by the following provisions:

From King John's Charter:

Sec. 46. No freeman shall be taken, or imprisoned, or disseized, or outlawed, or banished, or in any way destroyed; nor will we pass upon him nor commit him to prison, unless by the legal judgment of his peers, or by the law of the land.

The same provision is contained in the 29th chapter of magna carta, of 9th Henry III. (1225), drawn out more at length, as follows, viz:

"Nullus liber homo capiatur, vel imprisonetur, aut disseiziatur de libero tenemento suo, vel libertatibus, vel liberis consuetudinis suis, aut utlagetur, aut exulit, aut aliquo modo destruatur; nec super eum ibimus, nec super eum mittemus, nisi per legale judicium parium suorum, vel per legem terrae. Nulli vendemus, nulli negabimus, aut differemus rectum vel justitiam." Which has been translated as follows:

"No freeman shall be taken, or imprisoned, or disseized of his freehold or his liberties, or free customs, or be outlawed, or banished, or in any way destroyed; and we will not pass upon him, nor condemn him but by the lawful judgment of his peers, or by the laws of the land. We will sell, (referring to justice and its administration), to no man, and we will not deny nor defer either right or justice to any man."

The 29th section of the confirmatio cartarum, or magna carta, of Edward I. has been translated into English, as follows, viz:

29. No freeman shall be taken or imprisoned, or disseized of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; and we will not pass upon him nor condemn him, but by lawful judgment of his peers, or by the laws of the land. We will sell to no man, we will not deny or defer to any man, either justice or right.

Sec. 3. Petition of Rights presented to King Charles the First, with his replies.

To the King's Most Excellent Majesty:

1. Humbly show unto our sovereign lord the King, the lords spiritual and temporal, and commons in parliament assembled,

that, whereas it is declared and enacted by a statute made in the time of the reign of King Edward the first, commonly called "Statutum de Tallagio non concedendo," that no tallage or aid should be laid or levied, by the King or his heirs, in this realm, without the good will and assent of the arch bishops, bishops, earls, barons, knights, burgesses and other the freemen of the commonalty of this realm: and by authority of parliament holden in the five and twentieth year of the reign of King Edward the third, it is declared and enacted that from thenceforth no person should be compelled to make any loans to the King, against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided, that none should be charged by any charge or imposition, called a benevolence, nor by such like charge, by which the statutes before mentioned, and other the good laws and statutes of this realm, your subjects have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in parliament.

2. Yet, nevertheless of late, divers commissions, directed to sundry commissioners in several counties, with instructions, have been issued, by means whereof your people have been in divers places assembled, and required to lend certain sums of money unto your majesty, and many of them upon their refusal so to do, have had an oath administered unto them, not warrantable by the the laws or statutes of this realm, and have been constrained to become bound to make appearance, and give attendance before your privy council and in other places; and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted; and divers other charges have been laid and levied upon your people in several counties, by lords lieutenants, deputy lieutenants, commissioners for musters, justices of peace and others, by command or direction from your majesty, or your privy council, against the laws and free customs of the realm.

3. And whereas, also, by the statute called "the great charter of the liberties of England," it is declared and enacted that no freeman may be taken or imprisoned, or be disseized of his freehold or liberties, or his free customs, or be outlawed or exiled, or

in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land.

4. And in the eighth and twentieth year of the reign of King Edward the third, it was declared and enacted by authority of parliament, that no man of what estate or condition that he be, should be put out of his lands or tenements, nor taken nor imprisoned, nor disinherited, nor put to death, without being brought to answer by due process of law.

5. Nevertheless against the tenor of the said statutes, and other the good laws and statutes of your realm, to that end provided, divers of your subjects have of late been imprisoned without any cause showed; and when for their deliverance they were brought before your justices by your majesty's writ of habeas corpus, there to undergo and receive, as the court should order, and their keepers commanded to certify the causes of their detainer; no cause was certified, but that they were detained by your majesty's special command, signified by the lords of your privy council, and yet were returned back to several prisons, without being charged with any thing to which they might make answer according to the law.

6. And whereas of late, great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn, against the laws and customs of this realm, and to the great grievance and vexation of the people.

7. And whereas, also, by authority of parliament, in the 25th year of the reign of King Edward III. it is declared and enacted that no man should be forejudged of life or limb, against the form of the great charter, and the law of the land, and by the said great charter, and other the laws and statutes of this your realm, no man ought to be adjudged to death, but by the laws established in this your realm, either by the customs of the same realm, or by acts of parliament; and whereas no offender, of what kind soever, is exempted from the proceedings to be used, and the punishments to be inflicted by the laws and statutes of this your realm; nevertheless of late time, divers commissions under your majesty's great seal have issued forth, by which certain persons have

been assigned and appointed commissioners, with power and authority to proceed within the land, according to the justice of martial law, against such soldiers and mariners, or other dissolute persons joining with them, as should commit any murder, robbery, felony, meeting or other outrage or misdemeanor whatsoever; and by such summary course and order as is agreeable to martial law, and is used in armies in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death, according to the law martial.

8. By pretext whereof, some of your majesty's subjects have been by some of the said commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might, and by no other ought, to have been judged and executed.

9. And also sundry grievous offenders, by color thereof claiming an exemption, have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused or forborne to proceed against such offenders, according to the same laws and statutes, upon pretence that the said offenders were punishable only by martial law, and by authority of such commissions as aforesaid; which commissions, and all others of like nature, are wholly and directly contrary to the said laws and statutes of this your realm.

10. They do therefore humbly pray your most excellent majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by act of parliament, and that none be called to make answer, or take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof: and that no freeman, in any such manner as is before mentioned, be imprisoned or delayed: and that your majesty would be pleased to remove the said soldiers and mariners, and that your people may not be so burdened in the time to come: and that the aforesaid commissions for proceeding by martial law, may be revoked and annulled; and that hereafter no commissions of like nature, may issue forth to any person or persons whatsoever, to be executed as aforesaid, lest by color of them, any of your majesty's subjects be destroyed, or put to death, contrary to the laws and franchise of the land.

11. All which they do most humbly pray of your most excellent majesty, as their rights and liberties, according to the laws and statutes of this realm. And that your majesty would also vouchsafe to declare, that the awards, doings, and proceedings, to the prejudice of your people, in any of the premises, shall not be drawn hereafter into consequence or example; and that your majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you, according to the laws and statutes of this realm, as they tender the honor of your majesty, and the prosperity of this kingdom.

THE KING'S ANSWER TO THE PETITION OF RIGHTS.

The King willeth that right be done, according to the laws and customs of the realm; and that the statutes be put in due execution, that his subjects may have no cause to complain of any wrong or oppressions, contrary to their just rights and liberties, to the preservation whereof he holds himself in conscience as well obliged, as of his prerogative.

The decision not being satisfactory to the members, the King was requested to appear in parliament, and make a more clear, and explicit answer. Thereupon King Charles appeared before the lords spiritual and temporal, and commons in parliament assembled, on the 7th of June, 1628, and the petition being read to him, the following answer was returned in writing: "Soit Droit fait comme il est desire." C. R.

(Let it be done as is desired.)

His majesty then spoke as follows, viz:

This I am sure is full, yet no more than I granted you in my first answer, for the meaning of that was to confirm your liberties, knowing according to your own protestations, that you neither mean nor can hurt my prerogative. And I assure you, my maxim is, that the people's liberties strengthen the King's prerogative, and the King's prerogative is to defend the people's liberties.

You see how ready I have shown myself to satisfy your demand, so that I have done my part; wherefore if this parliament have not a happy conclusion, the sin is yours, I am free from it.

SEC. 4. BILL OF RIGHTS, PASSED 1st WILLIAM AND MARY, 1689.

An act for declaring the rights and liberties of the subject, and settling the succession of the crown.

Whereas the lords spiritual and temporal, and commons, assembled at Westminster, lawfully, fully and freely representing all the estates of the people of this realm, did upon the 13th day of February, in the year of our Lord one thousand six hundred and eighty-eight, present unto their majesties then called and known by the name and style of William and Mary, prince and princess of Orange, being present in their proper persons, a certain declaration in writing,made by the said lords and commons, in the words following, viz: Whereas the late King James the second, by the assistance of divers evil counsellors, judges, and ministers employed by him, did endeavor to subvert and extirpate the protestant religion, and the laws and liberties of this kingdom;

1. By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of parliament.

2. By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the said assumed power.

3. By issuing and causing to be executed a commission under the great seal for erecting a court called, "the court of commissioners for ecclesiastical causes."

4. By levying money for and to the use of the crown, by pretence of prerogative, for other time, and in other manner, than the same was granted by parliament.

5. By raising and keeping a standing army within this kingdom in time of peace, without consent of parliament, and quartering soldiers contrary to law.

6. By causing several good subjects, being protestants, to be disarmed, at the same time when papists were both armed and employed contrary to law.

7. By violating the freedom of election of members to serve in parliament.

8. By prosecutions in the court of King's bench, for matters and causes cognizable only in parliament; and by divers other arbitrary and illegal courses.

9. And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on juries in trials, and particularly divers jurors in trials for high treason, which were not freeholders.

10. And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

11. And excessive fines have been imposed; and illegal and cruel punishments inflicted.

12. And several grants and promises made of fines and forfeitures, before any conviction or judgment against the persons, upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.

And whereas the said late King James the second having abdicated the government, and the throne being thereby vacant, his highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords temporal and spiritual, and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being protestants, and other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the choosing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at Westminster upon the two and twentieth day of January, in this year one thousand six hundred and eighty-nine, in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted; and thereupon the said lords spiritual and temporal, and commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid; do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare—

1. That the pretended power of suspending the laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.

2. That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

3. That the commission for erecting the late court of commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

4. That levying money for or to the use of the crown, by pretence of prerogative, without grant of parliament, for longer time, or in other manner than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law.

7. That the subjects which are protestants, may have arms for their defence suitable to their conditions, and as allowed by law.

8. That election of members of parliament ought to be free.

9. That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

10. That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

11. That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason, ought to be freeholders.

12. That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.

13. And that for redress of all grievances, and for the amending, strengthening, and preserving the laws, parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings, or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his highness the prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence that his said highness the prince of Orange, will perfect the deliverance so far advanced by him, and will preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties:

II. The said lords spiritual and temporal, and commons, assembled at Westminster, do resolve, that William and Mary, prince and princess of Orange, be, and be declared, King and Queen of England, France, and Ireland, and the dominions thereto belonging, to hold the crown and royal dignity of the said Kingdoms and dominions to them the said prince and princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by, the said prince of Orange, in the names of the said prince and princess, during their joint lives; and after their deceases, the said crown and royal dignity of said kingdoms and dominions be to the heirs of the body of the said princess; and for default of such issue, to the princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of the said prince of Orange. And the lords spiritual and temporal, and commons, do pray the said prince and princesss to accept the same accordingly.

III. And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law, instead of them; and that the said oaths of allegiance and supremacy be abrogated.

I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to their majesties, King WILLIAM and Queen MARY. So help me God.

I, A, B., do swear. that I do from my heart abhor, detest, and abjure, as impious and heretical, that damnable doctrine and position, that princes excommunicated or deprived by the people, or any authority of the see of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state, or potentate hath, or ought to have any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm.

So help me God.

IV. Upon which their said majesties did accept the crown and royal dignity of the kingdoms of England, France and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons contained in the said declaration.

V. And thereupon their majesties were pleased, that the said lords, spiritual and temporal, and commons, being the two houses of parliament, should continue to sit, and with their majesties royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted; to which the said lords spiritual and temporal, and commons, did agree and proceed to act accordingly.

VI. Now in pursuance of the premises, the said lords spiritual and temporal, and commons, in parliament assembled, for the ratifying, confirming, and establishing the said declaration, and the articles, clauses, matters, and things therein contained, by the force of a law made in due form by authority of parliament, do pray that it may be declared and enacted, that all and singular the rights and liberties asserted and claimed in the said declaration, are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their majesties and their successors, according to the same, in all times to come.

(Sections VII., VIII., IX., and X., are irrelevant.)

XI. All which their majesties are contented and pleased shall be declared, enacted, and established by authority of this present parliament, and shall stand, remain, and be the law of this realm forever; and the same are by their said majesties, by and with the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

XII. And be it further declared and enacted by the authority aforesaid, that from and after this present session of parliament, no dispensation by non obstante of or to any statute, or any part

thereof shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during the present session of parliament.

(Section XIII., irrelevant.)

SEC. 5. COMMENTS ON THE ENGLISH CHARTERS, AND ON ENGLISH LIBERTIES.

The great charter was extorted by the Norman barons from the Kings, to limit the power of the monarch—not to limit or lessen the powers of parliament. They were concessions made by the Kings to the barons, parliament, and freemen of England, in which the supremacy of parliament is acknowledged, in the words "vel per legem terrae," (or by the laws of the land). The bill of rights of 1689 was for the same purpose—to limit the power of the monarch and secure the rights of the subject from his arbitrary and illegal acts, and not to limit the power of parliament; on the contrary, article or chapter V., of the bill of rights, expressly affirms the supremacy of the acts of parliament, which may be concurred in by their royal majesties.

Those charters were intended to secure the rights and liberties of the freemen of England, and not those of villeins, serfs, nor slaves; and the writ of habeas corpus was devised to enable the courts to execute those charters, so far as personal liberty is concerned, in order to secure every freeman from arbitrary and illegal imprisonments. The provisions of those ancient charters above quoted, and the principles of the bill of rights of 1689, are embodied with some changes of phraseology in nearly all the American constitutions and bills of rights. Hence the former, and the practice under them, will serve to aid in interpreting the latter.

Neither magna carta, the petition of rights, and its affirmance by King Charles, in 1628, nor the bill of rights of 1689, to secure the rights and liberties of the people of England, made any reference to their religious rights and the liberty of conscience. On the contrary, the arbitrary acts of parliament, passed to compel the people to adopt one religious faith, and one prescribed form of religious worship, continued in force, and many punishments were

prescribed, and disabilities imposed on dissenters and non conformists, with a view to aid in executing the arbitrary and tyranical laws.

The English people had, at that period, no clear conceptions of religious liberty, and but an imperfect one of toleration in matters of religious faith and worship; though political toleration had been allowed in Holland more than a century, and nearly a century in France, (from 1598 to 1685); and perfect religious liberty had existed in the colony of Rhode Island about fifty years, and a very close approximation to entire religious liberty had long existed in the colonies of Maryland, New York, New Jersey, and the Carolinas.

The British parliament passed an act in 1689, to allow some degree of toleration to protestent dissenters; but the Roman Catholics were still proscribed, and were subject to many disabilities and oppressions, until the passage of the Catholic emancipation bill, in 1830; which, for the first time, established complete religious toleration in the Islands of Great Britain and Ireland. But entire religious liberty has never been established there—catholics, and dissenting protestants are still taxed by their oppressive tything system, to support the Episcopal bishops and clergy.

The principles of perfect religious liberty were first announced by Roger Williams, and established by him in the colony of Rhode Island. In its expansive, great, permanent, and benign influence upon the welfare of the human family, it was the greatest and the noblest achievment of the seventeenth century—equalled only by the reformation of the 16th century, by the establishment of free toleration in Holland and France in the same century, and by the American revolution of the 18th century.

Free toleration in matters of religion had long existed in all the American colonies, including even the puritan colonies of Massachusetts and Connecticut; and entire religious liberty was established during the revolntion in all the states except those two. The connection between church and state was continued in Connecticut until the adoption of their first constitution, in 1818; and one class of people were taxed to support the clergy and churches of another; and such was the case in Massachusetts, until they adopted an amendment to their state constitution, in 1833. Since that time, I believe entire religious liberty has existed in all the states;

and all the churches and clergy are supported by voluntary contributions, and by renting or taxing pews and seats in the places of worship.

Not only both of the civil wars in England, in the 17th century, and the revolutions of 1649 and 1688, grew out of a spirit of intolerance and religious persecutions, but nearly all the great wars of Europe during the 16th and 17th centuries grew out of the same causes.

The history of the civilized world, during the last fifteen centuries, establishes the affirmation as a philosophic truth, that permanent peace and harmony cannot exist in any nation, without religious toleration; and that perfect freedom in matters of religious faith and worship constitutes the strongest agent of peace and harmony which can exist among any people. There was more restlessness and turbulence, more dissensions, excitements, controversies, bitter contentions, strifes, and quarrels, in the colony of Massachusetts Bay, during the period of the most rigid intolerance and the most violent persecutions, than in any of the other American colonies, at any period of their existence.

Sec. 6. Constitution of South Carolina.

The following articles are taken from the constitution of South Carolina, adopted March 25th, 1776, viz:

ARTICLE VIII.

Sec. 1. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall, forever hereafter, be allowed within this state to all mankind: Provided, that the liberty of conscience hereby declared, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this state.

2. The rights, privileges, immunities, and estates of both civil and religious societies and of corporated bodies, shall remain as if the constitution of this state had not been altered or amended.

ARTICLE IX.

Sec. 1. All power is originally vested in the people; and all free governments are founded on their authority, and are instituted for their peace, safety, and happiness.

2. No freeman of this state shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land: nor shall any bill of attainder, ex posto facto law, or law impairing the obligation of contracts, ever be passed by the legislature of this state.

3. The military shall be subordinate to the civil power.

4. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

5. The legislature shall not grant any title of nobility or hereditary distinction, nor create any office, the appointment to which shall be for a longer time than during good behavior.

6. The trial by jury, as heretofore used in this state, and the liberty of the press, shall be forever inviolably preserved.

Section 23, of article I., is as follows:

23. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God, and the care of souls, and ought not to be diverted from the great duty of their functions: therefore, no minister of the gospel, or public preacher, of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of governor, lieutenant governor, or a seat in the senate or house of representatives.

Section 5, of article X., is as follows, viz:

5. The legislature shall, as soon as may be convenient, pass laws for the abolition of the rights of primogeniture, and for giving an equitable distribution of the real estate of intestates.

Sec. 7. bill of rights of virginia.

A Declaration of Rights made by the Representatives of the good People of Virginia, assembled in full and free Convention; which rights do pertain to them and their Posterity, as the basis and foundation of Government. Unanimously adopted, June 12th, 1776.

Sec. 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the

means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best, which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

4. That no man, or set of men, are entitled to exclusive or separate emoluments or priviliges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

5. That the legislative and executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men having sufficient evidence of permanent common interest with, and attachment to the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner assented, for the public good.

7. That all power for suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

8. That in all capital or criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidences in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particulaly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

13. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by the civil power.

14. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of the government of Virginia, ought to be erected or established within the limits thereof.

15. That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, mode-

ration, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience, and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.

The 11th section of the 3d article of the constitution of 1830, secures perfect religious freedom in more explicit terms than the bill of rights; but whether it was in the constitution of 1776, or not, I am not able to state.

It is as follows, viz:

11. The privilege of the writ of habeas corpus shall not in any case be suspended. The legislature shall not pass any bill of attainder; or any ex post facto law; or any law impairing the obligation of contracts; or any law, whereby private property shall be taken for public uses, without just compensation; or any law abridging the freedom of speech, or of the press. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor shall any man be enforced, restrained, molested, or burthened in his body or goods, or otherwise suffer, on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain their opinions in matters of religion, and the same shall in no wise affect, diminish, or enlarge their civil capacities. And the legislature shall not prescribe any religious test whatever; nor confer any peculiar privileges or advantages on any one sect or denomination; nor pass any law requiring or authorizing any religious society, or the people within any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and make for his support such private contract as he shall please.

Sec. 8. Constitutions of New Jersey and Maryland.

The first constitution of New Jersey was adopted by the provincial congress, or constitutional convention by which it was made, July 2d. 1776. It contained no formal bill of rights, but the fol-

lowing provisions and sections, to secure the religious rights and liberties of the people, viz:

18. That no person shall ever within this colony be deprived of the inestimable privilege of worshiping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretence whatsoever, be compelled to attend any place of worship, contrary to his own faith and judgment; nor shall any person within this colony, ever be obliged to pay tithes, taxes, or any other rates, for the purpose of building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately and voluntarily engaged himself to perform.

19. That there shall be no establishment of any one religious sect in this province in preference to another; and that no protestant inhabitant of this colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any protestant sect, who shall demean themselves peacebly under the government as hereby established, shall be capable of being elected into any office of profit or trust, or being a member of either branch of the legislature, and shall fully and freely enjoy every privilege and immunity enjoyed by others of their fellow subjects.

The constitution concludes as follows, viz:

Provided always, and it is the true intent and meaning of this congress, that if a reconciliation between Great Britain and these colonies should take place, and the latter be again taken under the protection and government of the crown of Great Britain, this charter shall be null and void, otherwise to remain firm and inviolable.

The first constitution of Maryland was adopted in the summer of 1776, withont any formal bill of rights; but to secure the state against official corruption and ecclesiastical influence, the following article was inserted in it, viz:

38. That no senator, delegate of the assembly, or member of the council, if he shall qualify as such, shall hold or execute any office of profit, or receive the profits of any office exercised by any other person, during the time for which he shall be elected; nor shall any governor be capable of holding any other office of profit

in this state, while he acts as such; and no person, holding a place of profit, or receiving any part of the profits thereof, or receiving the profits arising on any agency, for the supply of clothing or provisions for the army or navy, or holding any office under the United States, or any of them—or minister, or preacher of the gospel of any denomination—or any person employed in the regular land service, or marine, of this or the United States, shall have a seat in the general assembly, or in the council of this state.

SEC. 9. BILL OF RIGHTS AND CONSTITUTION OF NORTH CAROLINA.

The constitution of North Carolina seems to have been deliberately formed, by a convention of one hundred and sixty-eight delegates, representing thirty-four counties, and seven towns or corporations. The convention met at Halifax, November 12th, and adopted a bill of rights, December 17th, and a constitution, December 18th, 1776; which, with some amendments, still continues in force.

DECLARATION OF RIGHTS MADE BY THE REPRESENTATIVES OF THE FREEMEN OF THE STATE OF NORTH CAROLINA.

Sec. 1. That all political power is vested in and derived from the people only.

Sec. 2. That the people of this state ought to have the sole and exclusive right of regulating the internal government and police thereof.

Sec. 3. That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.

Sec. 4. That the legislative, executive, and supreme judicial powers of government, ought to be forever separate and distinct from each other.

Sec. 5. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Sec. 6. That elections of members to serve as representatives in general assembly, ought to be free.

Sec. 7. That in all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

Sec. 8. That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment.

Sec. 9. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury, of good and lawful men, in open court, as heretofore used.

Sec. 10. That excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

Sec. 11. That general warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 12. That no freeman ought to be taken, imprisoned, or disseized, of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

Sec. 13. That every freeman restrained of his liberty, is entitled to a remedy—to inquire into the lawfulness thereof, and to remove the same if unlawful, and that such remedy ought not to be denied or delayed.

Sec. 14. That in all controversies at law, respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

Sec. 15. That the freedom of the press is one of the great bulwarks of liberty, and, therefore, ought never to be restrained.

Sec. 16. That the people of this state ought not to be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in general assembly, freely given.

Sec. 17. That the people have a right to bear arms for the defence of the state; and, as standing armies in time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

Sec. 18. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

Sec. 19. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciencies.

Sec. 20. That for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

Sect. 21. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 22. That no hereditary emoluments, privileges or honors, ought to be granted or conferred in this state.

Sec. 23. That perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.

Sec. 24. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, wherefore, no ex post facto law ought to be made.

Section 25 relates to boundaries and titles.

The following sections are contained in the constitution, viz:

Sec. 31. That no clergyman, or preacher of the gospel, of any denomination, shall be capable of being a member of either the senate, house of commons, or council of state, while he continues in the exercise of the pastoral function.

Sec. 32. That no person who shall deny the being of God, or the truth of the protestant religion, or the divine authority either of the Old or New Testament, or who shall hold religious principles, incompatible with the freedom and safety of the state, shall be capable of holding any office or place of trust or profit in the civil department of the state.

Sec. 34. That there shall be no establishment of any one religious church or denomination in this state in preference to any other; neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship, contrary to his own faith or judgment, nor be obliged to pay for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform; but

all persons shall be at liberty to exercise their own mode of worship: Provided, that nothing herein contained shall be construed to exempt preachers of treasonable or seditious discources from legal trial and punishment.

Sec. 37 That the delegates for this state to the continental congress, while necessary, shall be chosen annually by the general assembly, by ballot, but may be superseded in the mean time, in the same manner: and no person shall be elected to serve in that capacity for more than three years successively.

Sec. 39. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison after delivering up, bona fide, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or presumption great.

Sec. 40. That every foreigner, who comes to settle in this state, having first taken an oath of allegiance to the same, may purchase, or by other just means acquire, hold and transfer land or other real estate; and after one year's residence, shall be deemed a free citizen.

Sec. 41. That a school or schools shall be established by the legislature for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and all useful learning shall be duly encouraged and promoted in one or more universities.

Sec. 42. That no purchase of lands shall be made of the Indian natives, but on behalf of the public, by authority of the general assembly.

Sec. 43. That the future legislature of this state shall regulate entails in such a manner as to prevent perpetuities.

Sec. 44. That the declaration of rights is hereby declared to be part of the constitution of this state, and ought never to be violated on any pretence whatever.

Sec. 10. Constitution of New York.

The first constitution of New York, formed and adopted by a convention, the 20th of April, 1777, contained no formal bill of

rights; but some of the articles thereof constitute a practical substitute for a bill of rights.

The following are extracts from that constitution, viz:

13. And this convention doth further, in the name and by the authority of the good people of this state, ordain, determine, and declare, that no member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to the subjects of this state, by this constitution, unless by the law of the land, or the judgment of his peers.

It was provided in article 35, "That all such parts of the common law, and all such of the said statutes, and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives, claimed or exercised by the King of Great Britain and his predecessors, over the colony of New York and its inhabitants, or are repugnant to this constitution, be, and they hereby are abrogated and rejected."

38. And whereas, we are required by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance, wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind: This convention doth further, in the name and by the authority of the good people of this state, ordain, determine, and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this state to all mankind: provided, that the liberty of conscience hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

39. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function: therefore no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding any civil or military office or place within this state.

On the 26th of January, 1787, the legislature of the state passed an act, entitled, "An act concerning the rights of the citizens of this state," which contained a formal bill of rights. It embodies chapter 29 of the magna carta of Henry III., the substance of the English petition of rights of 1628, and the bill of rights of 1689.

The 38th and 39th articles of the constitution, copied above, were avowedly intended to secure the people from spiritual and ecclesiastical "oppression and intolerance." The convention regarded the participation of clergymen in matters of politics, and government as inconsistent with popular liberty, and with the safety and general welfare of the people; and hence it was declared that "no minister of the gospel, or priest of any denomination should be eligible to, or capable of holding, any civil or military office or place within the state." That constitution secured perfect religious liberty.

SEC. 11. BILL OF RIGHTS OF MASSACHUSETTS.

A constitution was framed for Massachusetts in the year, 1776, submitted to and rejected by the people of the state, for the reason that it did not contain a bill of rights. The first constitution that was adopted by the people, (in 1780), contained a bill of rights as follows, viz:

A DECLARATION OF RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

Art. 1. All men are born free and equal, and have certain natural, essential, and inalienable rights: among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

2. It is the right, as well as the duty, of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the Great Creator and Preserver of the Universe. And no subject shall be hurt, molested or restrained in his person, liberty, or estate, for worshiping God in the manner and season most agreeable to the dictates of his own conscience; or of his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

3. As the happiness of the people, and the good order and preservation of civil government, especially depend upon piety, religion, and morality; and as these cannot be generally diffused throughout the community, but by the institution of a public worship of God, and of public institutions in piety, religion, and morality; therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

All the people of the commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers, as aforesaid, at stated times and seasons, if there be any one whose instructions they can conscientiously and conveniently attend:—

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

All moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instruction he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth shall be equally under the protection of the law; and no subordination of any sect or denomination to another shall ever be established by law.

4. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state: and do, and forever hereafter shall, exercise and enjoy

every power, jurisdiction, and right, which is not, or may not hereafter be by them expressly delegated to the United States of America, in congress assembled.

5. All power residing originally in the people, and being derived from them, the several magistrates and officers of government vested with authority, whether legislative, executive, or judicial, are thetr substitutes and agents, and are at all times accountable to them.

6. No man, or corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public. And this title being in nature, neither hereditary nor transmissible to children or descendants, or relations of blood, the idea of a man born a magistrate, lawgiver or judge, is absurd and unnatural.

7. Government is instituted for the common good: for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or any one class of men. Therefore, the people alone have an incontestable, inalienable, and indefeasible right to institute government, and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

8. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by the frame of government, to cause their public officers to return to private life, and to fill up vacant places by certain and regular elections and appointments.

9. All elections ought to be free, and all the inhabitants of this commonwealtb, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected for public employments.

10. Each individual of the society has a right to be protected by it, in the enjoyment of his life, liberty, and property, according to the standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary. But no part of the property of any individual can, with justice, be taken from him, or applied to the public use, without his own consent, or that of the

representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require, that the property of any individual shall be appropriated to public uses, he shall receive a suitable compensation therefor.

11. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive, in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it—completely, and without any denial—promptly, and without delay—conformably to the laws.

12. No person shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. And every person shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him, face to face, and be fully heard in his defense, by himself or his counsel, at his election. And no person shall be arrested, imprisoned, or despoiled or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment (excepting for the government of the army and navy) without trial by jury.

13. In criminal prosecutions the verification of facts, in the vicinity in which they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

14. Every person has a right to be secure from all unreasonable searches and seizures of his person, his house, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order, in a warrant to a civil officer, to make search in all suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons and objects of search, arrest, or seizure. And no warrant ought to be issued but in such cases, and with the formalities prescribed by the laws.

15. In all controversies concerning property, and in all suits between two or more persons, (except in cases in which it has heretofore been otherwise used and practised), the parties have a right to a trial by jury; and this method of procedure shall be held sacred —unless, in cases arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

16. The liberty of the press is essential to security of freedom in a state; it ought not, therefore, to be restrained in this commonwealth.

17. The people have a right to keep and to bear arms for the common defence. And as in time of peace, armies are dangerous to liberty, they ought not to be maintained, without the consent of the legislature: and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

18. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives, and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of all laws necessary for the good administration of the commonwealth.

19. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instruction to their representatives; and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

20. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature; or by authority derived from it, to be executed in such particular cases only as the legislature shall expressly provide for.

21. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

22. The legislature ought frequently to assemble, for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

23. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatever, without the consent of the people, or their representatives in the legislature.

24. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

25. No person ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

The reader will see that the 3d article does not establish religious liberty, but religious toleration only. It retains some of the old puritan ecclesiastical domination and tyranny over persons not church members, and not inclined to attend and support religious worship. It gives the legislature power to pass laws to compel their attendance, and to tax their property to support the church and clergymen situated in their parish, which in nine cases out of ten, at that time, compelled them to contribute to the support of an orthodox Congregational clergyman. And many Baptists, Episcopalians, Friends or Quakers, Unitarians, and other religious persons were so situated that they were legally taxed to support Congregational churches and ministers. The injustice of such laws is clearly acknowledged by the freemen of the state, by the adoption, in 1833, of an amendment to the constitution, to abrogate those tyrannical provisions, and to establish the religious liberty of the citizens of the state, as follows, viz:

Art. 11. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:

As the public worship of God, and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or

religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: And all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such society: And all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

SEC. 12. BILL OF RIGHTS OF NEW HAMPSHIRE.

The bill of rights of New Hampshire, forming a part of the constitution of 1792, is much the longest, fullest, and most argumentative and explanatory, of any of the American constitutions. It seems to embody about every thing contained in the bills of rights of the several states previously adopted; but it does not establish perfect religious liberty as was done in other states, except Massachusetts and Connecticut.

The 23d section, relating to retrospective laws, is unsound, and cannot be otherwise than pernicious, so far as it applies to civil matters. Great Britain, and all the states have given their laws a retrospective operation in a variety of cases: 1st, in devising new remedies, they are generally applied to past as well as to future transactions: 2d. Retrospective laws are often necessary to confirm just and equitable titles, which, for various reasons, are defective in form, by reason of the non-compliance with the strict letter of the law. The following reported cases present memorable examples of retrospective laws, and of their justice and importance, in certain cases. Wilkinson vs. Leland, 2d Peters' Rep. Sup. Court U. States, page 627; Satterlee vs. Matthewson, 2d Peters' 380; Walter vs. Bacon, 8 Mass. Rep., 468, and Locke vs. Dane, 9th Mass. Rep., 360.

BILL OF RIGHTS OF NEW HAMPSHIRE.

Art. 1. All men are born equally free and independent: Therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good.

2. All men have certain natural, essential, and inherent rights—among which are, the enjoying and defending life and liberty, acquiring, possessing, and protecting property; and, in a word, of seeking and obtaining happiness.

3. When men enter iuto a state of society, they surrender up some of their natural rights to that society, in order to ensure the protection of others; and without such an equivalent the surrender is void.

4. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the rights of conscience.

5. Every individual has a natural and inalienable right to worship God, according to the dictates of his own conscience and reason: and no person shall be hurt, molested, or restrained in his person, liberty, or estate, for worshiping God in the manner most agreeable to the dictates of his own conscience, or for his religious profession, sentiments, or persuasion; provided he doth not disturb the public peace, or disturb others in their religious worship.

6. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection; and as the knowledge of these is most likely to be propagated through a society by the institution of the public worship of the Deity, and of public instruction, in morality and religion; therefore, to promote these important purposes, the people of this state have a right to empower, and do hereby fully empower, the legislature, to authorize, from time to time, the several towns, parishes, bodies corporate, or religious societies, within this state, to make adequate provision, at their own expense, for the support and maintenance of public protestant teachers of piety, religion, and morality:

Provided, notwithstanding, that the several towns, parishes, bodies corporate, or religious societies, shall at all times have the

exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person, of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect, or denomination.

And every denomination of Christians, demeaning themselves quietly, and as good citizens of the state, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain, and be in the same state, as if the constitution had not been made.

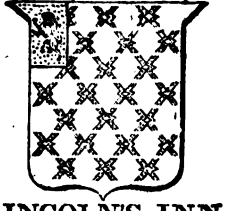
7. The people of this state have the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, pertaining thereto, which is not, and may not hereafter be, by them expressly delegated to the United States of America in congress assembled.

8. All power residing originally in, and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

9. No office or place whatsoever, in government, shall be hereditary—the ability and integrity requisite in all not being transmissible to posterity or relations.

10. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of the government are perverted, or public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

11. All elections ought to be free, and every inhabitant of the state, having the proper qualifications, has an equal right to elect, and be elected, into office.



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12. Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and property; he is therefore bound to contribute his share to the expense of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controlable by any other laws than those to which they, or their representative body, have given their consent.

13. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

14. Every citizen of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without denial, promptly, and without delay, conformable to the laws.

15. No person shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him: nor be compelled to accuse or furnish evidence against himself. And every person shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face; and to be fully heard in his defence, by himself and counsel. And no person shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

16. No person shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment (excepting for the government of the army and navy, and the militia in actual service), without trial by jury.

17. In criminal prosecutions, the trial of facts, in the vicinity where they happen, is so essential to the security of the life, liberty, and estate of the citizens, that no crime or offence ought to be tried in any other county than that in which it is committed, except in cases of general insurrection in any particular county, when it shall

appear to the judges of the superior courts that an impartial trial cannot be had in the county where the offence may be committed, and upon their report the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

18. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. Where the same undistinguished severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences. For the same reason, a multitude of sanguinary laws is both impolitic and unjust: the true design of all punishment being to reform, not to exterminate mankind.

19. Every person hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places, or arrest a person for examination or trial, in prosecution for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in a warrant of a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued, but in cases, and with the formalities, prescribed by law.

20. In all controversies concerning property, and in all suits between two or more persons, excepting in cases wherein it hath been heretofore otherwise used and practised, the parties have a right to a trial by jury; and this right shall be deemed sacred and inviolable; but the legislature may, by the constitution, be empowered to make such regulations as will prevent parties from having as many trials by jury, in the same suit or action, as hath been heretofore allowed and practised, and to extend the civil jurisdiction of justices of the peace to the trials of suits where the sum demanded in damages doth not exceed four pounds, saving the right of appeal to either party. But no such regulations shall

take away the right of trial by jury, in any case not in this article before excepted, unless in cases respecting mariner's wages.

21. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that none bnt qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time, and attendance.

22. The liberty of the press is essential to the security of freedom in a state; it ought, therefore, to be inviolably preserved.

23. Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offences.*

24. A welll regulated militia is the proper, natural, and sure defence of a state.

25. Standing armies are dangerous to liberty, and ought not to be raised, or kept up, without the consent of the legislature.

26. In all cases, and at all times, the military ought to be under strict subordination to, and governed by the civil power.

27. No soldier, in time of peace, shall be quartered in any house, without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrates, in a manner ordained by the legislature.

28. No subsidy, charge, tax, impost, or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body.

29. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

30. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint or prosecution, in any other court or place whatsoever.

31. The legislature shall assemble for the redress of public grievances, and for making such laws as the public good may require.

32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the public good, give instructions to

* See remarks on this section on page 99 ante.

their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

33. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

34. No person can, in any case, be subjected to law martial, or to any pains or penalties by virtue of that law, except those employed in the army and navy, and except the militia in actual service, but by authority of the legislature.

35. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as impartial as the laws of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well; subject, however, to such limitations, on account of age, as may be provided by the constitution of the state: and that they should have honorable salaries, ascertained and established by standing laws.

36. Economy being a most essential virtue in all states, especially in a young one, no pension shall be granted but in consideration of actual services; and such pensions ought to be granted with great caution by the legislature, and never for more than one year at a time.

37. In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of each other, as the nature of a free government will admit, or is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity.

38. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and represen-

tatives: And they have a right to require of their lawgivers and magistrates, an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of the government.

SEC. 13. BILL OF RIGHTS OF VERMONT.

Vermont adopted a constitution in 1777, and claimed to be an independent state, though she was not so regarded for many years afterwards. New York claimed jurisdiction over the whole state of Vermont, and her independence was not recognized until the claims of New York were settled, and she ceded them to Vermont in the year 1792. The people of Vermont then formed a new constitution, with a bill of rights, and was admitted into the Union.

The following are articles contained in the

BILL OF RIGHTS OF VERMONT.

Art. 1. That all men are born equally free and independent, and have certain natural, inherent, and inalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety: therefore, no male person, born in this country, or brought from over sea, ought to be holden by law to serve any person as a servant, slave, or apprentice, after he arrives at the age of twenty-one years, nor female, in like manner, after she arives to the age of eighteen years, unless they are bound by their own consent, after they arrive to such age, or bound by the law for the payment of debts, damages, fines, costs, or the like.

2. That private property ought to be subservient to public uses when necessity requires it; nevertheless, when any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.

5. The people of this state, by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.

6. That all power being originally inherent in, and consequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants, and at all times, in a legal way, accountable to them.

7. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community; and that the community hath an indubitable, inalienable, and indefeasible right to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.

13. That the people have a right to a freedom of speech, and of writing and publishing their sentiments concerning the transactions of government, and therefore the freedom of the press ought not to be restrained.

14. The freedom of deliberation, speech, and debate, in the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation, or prosecution, action or complaint, in any other court or place whatsoever.

19. That all people have a natural and inherent right to emigrate from one state to another that will receive them.

21. That no person shall be liable to be transported out of this state for trial of any offence committed within the same.

All the American bills of rights established the freedom of the press, and declared its importance, but, so far as I can learn, Vermont was the first to declare, in section thirteen of her bill of rights, "*that the people have a right to freedom of speech.*" The constitution of Kentucky, Ohio, Maine, and other states, adopted since 1793, declare and secure that important civil, political, and religious right.

The 19th article of the bill of rights of Vermont, declaring the right to emigrate from the state is also new. The same right is affirmed in the constitutions of Kentucky, Ohio, Alabama, Mississippi, Louisiana, Indiana, Missouri, and Pennsylvania.

The first article, declaring the rights of personal liberty, was borrowed from the declaration of independence, and is much more full and complete, than the first article in the bill of rights of Massachusetts, and similar articles in the constitutions of other states upon that subject.

Sec. 14. Constitution of Kentucky.

The people of Kentucky formed a constitution and were admitted into the Union as an independent state, in 1792. They formed their second constitution in 1799, the 10th article of which constitutes a declaration of rights, more perfect as to civil and religious liberty, and more explicit as to freedom of speech, than any of the early constitutions. The following are the most important sections which differ in substance from the ordinary phraseology employed in the early American constitutions, viz:

1. That all free men, when they form a social compact, are equal; and that no man or set of men are entitled to exclusive, separate, public emoluments or privileges from the community, but in consideration of public services.

2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness: for the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship.

4. That the civil rights, privileges, or capacities of any citizen shall in nowise be diminished or enlarged on account of his religion.

7. That printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

8. In prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacity, or where

the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

14. That no power of suspending laws shall be exercised, unless by the legislature or its authority.

27. That emigration from this state shall not be prohibited.

28. To guard against transgressions of the high powers which we have delegated, we declare, that every thing in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or contrary to the constitution, shall be void.

Sec. 15. General comments on bills of rights.

Having noticed the declarations of rights of nearly all the state constitutions, adopted prior to the year 1800, it is sufficient to observe, that the others not specially referred to, and those adopted since that time, do not contain any important new provisions, to declare and secure either the civil, religious, or political rights and liberties of the people.

The 3d section of article 10 of the constitution of Kentucky declares the religious rights and liberties of the people with more clearness, precision, and accuracy, than any of the other constitutions or bills of rights. The bill of rights of Vermont declares "that no man ought to, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, *contrary to the dictates of his conscience.*" The Kentucky constitution declares he shall not be compelled to do so "*against his consent.*" If he consent, then there is no compulsion at all. But should a person who approves the doctrines of a church, and attends it, be compelled to contribute to support a clergyman whom he disapproves, or to contribute to build a new church on a plan which he thinks too expensive and extravagant, merely because he may have no conscientious scruples on the subject? Is it not a direct violation of the principles of religious liberty to compel a person in any case, and under any circumstances, to contribute to the support of a church or ministry, except so far as to require him to fulfil his contracts upon the

subject? Such is the generally received opinion of religious liberty in this country at the present day, except among the puritans of New England, and some of their descendants in other states.

Laws to compel persons to attend a particular church established by law, and to pay tithes or taxes for the support of the same, and the ministry thereof, and laws to compel them to attend some church, and to contribute to the support of the ministry thereof, allowing every person the privilege of selecting the church of his choice, are both inconsistent with religious liberty, and essentially unjust and tyrannical; though the latter may not violate the conscience of any person, and are therefore less tyrannical and objectionable than the former.

The popular sense of the words "religious liberty," as used in this country, is that any person has a right to attend any church or churches, and to aid in supporting the same, and the ministry thereof, or to refuse to attend, or to aid in supporting any; that religion should be propagated by moral suasion only, and not by compulsion; and that churches and ministers should be supported by contracts and donations voluntarily made, and not by tithes nor taxes laid by law.. It is an abuse of language to say a person enjoys religious liberty, if any compulsory power whatever can be exercised over him upon religious subjects, or over his property for religious purposes, by virtue of the law. The puritans of the 17th and 18th centuries regarded such liberty as unbridled license—tending directly to irreligion, dissoluteness, and infidelity; but fortunately for our country, their contracted, rigid, and bigoted views upon religious subjects have mostly disappeared before the light and intelligence of the 19th century.

The 4th, 5th, and 6th amendments to the constitution of the United States are essentially the same as the 8th and 10th sections of the bill of rights of Virginia, and the 12th, 13th, and 14th sections of the bill of rights of Massachusetts, from which they were probably borrowed, and the phraseology slightly changed and improved. All those provisions were intended to secure the personal liberty of the citizen. They show the great importance attached by the people of Virginia and Massachusetts, and afterwards by congress and the legislatures of nearly all the states, to personal liberty, and how jealous they were of arbitrary arrests

and imprisonments without due process of law. These provisions were at that period, in some respects, new and extraordinary—going far beyond any English precedent. Hence they may be claimed as of American origin. The writ of habeas corpus provided for by act of parliament, in 1678, was the principal reliance of Englishmen for the protection of personal liberty, and for the security of the rights declared in the petition of rights of 1628, and the bill of rights of 1689.

SEC. 16. ARBITRARY IMPRISONMENTS, AND THE WRIT OF HABEAS CORPUS.

The writ of habeas corpus is the great remedial writ relied upon by Americans, as well as by Englishmen, for the protection of personal liberty; and yet the 9th section of article I. of the constitution of the United States recognizes the authority of the government to suspend the privileges of that writ, "when in cases of rebellion or invasion, the public safety may require it;" but it does not in express words grant the power either to the executive or legislative branches of the government. It would seem in its nature to be an executive power, to be exercised when the public safety requires it, whether congress be in session or not, and in such district or districts of country as the danger may exist, by reason of invasion or rebellion, and for such period of time as the danger may continue. It would seem that all these things must be determined by executive discretion, it being supposed that the executive is always cognizant of the facts, and always ready to act, which is not the case with congress; and yet it would seem that the legislative power may properly prescribe by law the mode of its exercise—may prescribe limits to its exercise, and may define, to some extent, the exigencies which justify and authorize its exercise.

The law might require charges to be filed and served on the party imprisoned, within a certain number of days after his arrest, and require him to be discharged if that were not done, and some reasonable ground of suspicion furnished by affidavit of some overt act of treason, or of a conspiracy against the government, or of correspondence, or other acts to aid, or preparatory to aiding, the invasion or rebellion. Much might be done by a proper statute

to secure the government from the machinations of conspirators, rebels, spies, informers, and other dangerous enemies, by authorizing their arrest and detention for a certain period, in times of invasion or rebelion, on some reasonable evidence of good grounds of suspicion of their active disloyalty—to give time for further investigation into their acts and conduct—and to collect evidence against them. But they should be immediately informed of the charges against them, to give them and their friends an opportunity for explanation, and to furnish evidence, if they could do so, to refute the charges, and show their loyalty.

Constitutions, as well as statutes, must have a reasonable construction. The 4th, 5th, and 6th amendments to the federal constitution should be construed with, and as modified by the section in relation to the suspension of that great remedial writ. It is obobviously impossible to carry those amendments into effect in districts of country controlled either by an invading army, or by an armed rebellion, comprising many states, in which the rebels have subverted the federal government, declared their independence, and established a revolutionary government of their own in its stead. Hence those amendments to the constitution of the United States to secure personal rights and a fair trial to persons charged with crime, cannot now apply to any of the seceded confederate states, where no courts of the United States can be held; and hence the necessity of suspending the writ of habeas corpus, and declaring, to some extent, martial law, in such exigencies, and of punishing some classes of persons by imprisonment, and others by martial law. Such has been the practice in England since 1688, to suspend the writ of habeas corpus, by act of parliament, and to allow arbitrary arrests and temporary imprisonments of suspected persons; which was done prior to that time by the King alone. During the present rebellion, the condition and exigencies of the country, in all the confederate states, and at times in portions of the border states of Maryland, Kentucky, and Missouri, have been such as to justify the suspension of the writ of habeas corpus, and the declaration of martial law, and all the rules and laws of war.

But that great remedial writ constitutes the palladium of the personal liberty and security of our citizens, and to suspend it in

the free states, hundreds of miles from the seat of rebellion and war, merely because a great and wicked rebellion exists in many of the slave states—and to seize by arbitrary power, and without legal process, hundreds of persons on mere suspicion of disloyalty, and for words only, and not for acts declared by the laws to be criminal—and send them off and incarcerate them for months in military prisons, without giving them any information of the grounds or causes of their arrest, or any opportunity to explain the matter, and show their loyalty, seems like a terrible and alarming abuse of arbitrary power; which, if drawn into a precedent, may be used by some ambitious president of the Cæsarian, Cromwellean, or Napoleonic order, to overthrow the constitution, subvert the liberties of the people, change the very nature of the government, and substitute in its place a military despotism, like that of Cromwell, France, Russia, or the ancient Roman Empire. This is no fancy picture, and hence our people are, and should be, jealous of, and alarmed by such fearful and shocking abuses of power, heretofore unknown in our country.

Great numbers of men have been arrested in the free states, hundreds of miles distant from the rebellion, and confined in military prisons for months, for words only—which were construed as evidence of disloyalty to the federal government, and as tending to discourage enlistments. We have no laws which make disloyalty to the government, without overt acts against it, a crime or offence; nor have we any laws which make words only, an offence, which can be punished by imprisonment or otherwise. Hence all such arrests and imprisonments are acts of arbitrary power, not only without law, but contrary to law. They are as despotic as any of the acts of Oliver Cromwell, Napoleon Bonaparte, or Louis Napoleon.

The president may issue proclamations to carry laws into effect, and may make temporary rules and regulations, (not inconsistent with the laws of congress), to govern the army, and to carry into effect the laws of war, in districts where war actually exists, and in their immediate vicinity—but he has no power to make laws, and no power to make words used, or acts done, at a distance from the seat of war, crimes, or offences, and to punish them as such, by imprisonment or otherwise. His attempt to make mere words

uttered in the free states, at a distance from the rebellion, a crime or offence, and to punish them as such, by imprisonment, even though they may tend to discourage enlistments, is a great and dangerous usurpation of legislative power, of a very alarming character. It is a very palpable and dangerous infraction, also, of the 1st amendment to the federal constitution, which was designed to secure freedom of speech.

But if the use of words tending to discourage enlistments, be so dangerous in times of invasion or rebellion as to justify their punishment, as crimes or offences, congress, and congress only, should legislate upon the subject, declare it a misdemeanor, and prescribe the punishment. The president has no power to do so; all his acts upon the subject being most palpable usurpations of legislative power. If the president can properly make laws to declare what shall constitute a crime, in any case out of the army, and far distant from the rebellion, and punish it as such, I can see no limit to his power in time of rebellion, to make laws for the punishment of crime, under the pretext of expediency, and the public safety. He may also legislate, by proclamation, in all civil matters, on the same pretended grounds of public expediency—as he has assumed to do by his emancipation proclamation. If that be law, then congress may be dispensed with altogether, as an expensive and useless clog upon the operations of the government. Such are the absurdities and dangerous consequences to which such novel and despotic doctrines lead. They involve claims of greater powers and prerogatives for the president, than have been exercised by any king of England since Charles the first was beheaded. The people of England rebelled against such arbitrary and despotic doctrines and the practice under them, more than two centuries since, and brought the neck of their king to the executioner's block. What the American people will do, time will disclose.

EXCEPTIONS AND LIMITATIONS.

As almost all general rules have their exceptions, and all laws their proper spheres of operation, to which their application is limited; so the 5th and 6th amendments to the federal constitution have their proper sphere, to which their operations are limited. The clause in the 5th amendment, that *no person shall* "*be deprived*

of life, liberty, or property, without due process of law," seems to be general, and without limitation as to persons, circumstances, or the condition of things; but such is not the case. They apply only to ordinary, and not to extraordinary circumstances, in which the public good requires their limitation. That clause was borrowed from the 29th chapter of magna carta, of Henry 3d, and is contained in the bills of rights, or constitutions, of nearly all the states; and yet it has always been construed that there are circumstances to which it does not apply, among which may be enumerated the following, viz:

1. Self-defence is regarded as the first law of nature. A man's person, and his personal rights and property, are regarded by the laws so sacred, as to justify his taking the life of another in many instances, when it seems necessary to protect his person or his property. He is not obliged to wait for the injury to be inflicted, and to run the risk of being killed himself, or robbed, and then appeal to the laws, or in case of murder, leave his friends or the community to sue out legal process for redress, and the punishment of the offender. On the contrary, he may shoot and take the life of a robber or burglar, without process.

2. Any person caught in the act of committing crime, may be arrested and committed to prison without legal process. To wait to get process, and let the criminal escape, would defeat the ends of law, and be absurd.

3. All state prisons have high walls around the prison yards, on which there are guards with fire-arms—whose duty it is to shoot any convict who may raise a mutiny, or attempt to escape. Many are shot, and some killed in such attempts. Their lives are taken in such instances from the necessity of the case, without the judgment of a court of justice, and *without process of law.*

4. In case of armed mobs, and local insurrections of armed men, it is often necessary to shoot in among them, and take the lives of some of them in that mode, *without process of law,* in order to disperse them, and restore order and obedience to law.

5. All great rebellions are supported by organized armies, with arms, and all the materials of war. They can be met and put down only by armies of military men, by the use of powder and ball. To give the 5th amendment to the federal constitution such

a construction as to deny the use of the only proper and effectual means to put down an organized rebellion, would be a gross absurdity.

6. In time of war, by reason of either invasion or rebellion, private property must often be taken by military men for public use, without legal process; though a just compensation should generally be paid for it.

7. When the supremacy of the laws is overthrown, the administration of justice obstructed, and the courts cannot sit, by reason of a great rebellion or revolutionary movement, the 5th and 6th amendments to the federal constitution do not apply to the state or states, and the district or districts of country in which the rebellion exists. The laws of war are then and there in force, and private persons, as well as soldiers, guilty of violating them, may be tried and punished by courts martial, or military commissions. To claim that spies and private, unorganized persons, who are guilty of killing or wounding soldiers, destroying provisions and supplies for the army, or otherwise guilty of aiding the enemy, by obstructing the movements and operations of an army, can be arrested only on legal process, and tried by the ordinary criminal courts of the country, after law and order shall have been restored, would be an absurdity contrary to the usages of all civilized nations. State rights, and state sovereignty in local and municipal matters, do not justify any such absurdities.

These are some among many exceptions and limitations to the broad and general application of the 5th and 6th amendments to the constitution of the United States, which their words would seem to warrant.

Sec. 17. The president's proclamations of September.

The emancipation proclamation issued by the president, September 22, was followed by another proclamation, bearing date September 24th, 1862, and effect was given to the first, so far as was practicable, by a subsequent one, published to the world on the first day of January, 1863. In each of those proclamations, the president assumed legislative powers, and attempted to legislate to an alarming extent.

PROCLAMATION OF THE PRESIDENT.

Whereas, it has become necessary to call into service, not only volunteers, but also portions of the militia of the states by draft, in order to suppress insurrection existing in the United States, and disloyal persons are not adequately restrained by the ordinary process of law from hindering this measure, and from giving aid and comfort in various ways to the insurrection: now, therefore,

Be it ordered, first—during the existing insurrection, and as a necessary measure for suppressing the same, all rebels or insurgents, their aiders or abettors within the United States, and all persons discouraging volunteer enlistments, resisting military drafts, or guilty of any disloyal practices, offering aid or comfort to the rebels against the authority of the United States, shall be *subject to martial law*, and liable to trial and punishment by court martial or military commission.

Second—That the writ of habeas corpus is suspended in regard to all persons arrested, or who are now or hereafter during the rebellion shall be imprisoned in any fort, arsenal, military prison, or other place of confinement by any military authority, or by the sentence of a court martial or military commission.

In witness whereof, I have hereunto set my hand and caused the Seal of the United States to be affixed. Done at the City of Washington, this 24th day of September, 1862, and of the independence of the United States the 87th.

By the President.

(Signed) ABRAHAM LINCOLN.

WM. H. SEWARD, Secretary of State.

There are several very grave objections to the foregoing proclamation.

1. It is a palpable, gross, and high-handed usurpation by the president of legislative powers, which can be exercised by congress only, with the approval of the president.

2. The suppression of the writ of habeas corpus, and the declaration of martial law throughout the United States, in all the loyal as well as the disloyal states, or to certain classes of persons, involves an assumption of power not conferred by the constitution

on either congress or the president. Such things can be legitimately done only in the vicinity of an invasion or rebellion. The public safety cannot demand and be promoted by such arbitrary acts, elsewhere.

3. The mode of trial and punishment proposed by "*courts martial and military commissions,*" when applied to the loyal states where the courts are and were in operation, and no obstruction is offered to the administration of justice, involves a palpable and gross violation of the 5th and 6th amendments of the constitution, without the common apology of necessity for such an arbitrary mode of proceeding.

I have no doubt that congress, by a formal legislative act, approved by the president, might pass a law applying to the loyal, as well as the disloyal states, making the acts and conduct referred to in the proclamation, crimes or misdemeanors, and prescribing the punishment, on being duly convicted in a court of justice, having jurisdiction of the offence. But even congress has no constitutional power to authorize the trial, by courts martial or military commission, of private persons charged with the commission of such offences in the loyal states, remote from the rebellion.

Some few cases had occurred of arbitrary arrests without legal process, in the loyal states, prior to the issuing of that proclamation; but the most of them had been made in Maryland and the District of Columbia, and had been very generally submitted to by the people, in the belief that they were eminently proper, under the circumstances, and that the public safety required them.

From the time of the attack of the rebels on fort Sumpter, in April, 1861, until the issuing of those proclamations in September, 1862, the prosecution of the war to put down the rebellion and restore the Union and the supremacy of the constitution and laws in all the states, was eminently, and almost universally popular among all parties and classes of people in the free states. Nearly all felt the importance of prosecuting the war vigorously, and of sustaining the administration in their efforts to put down the rebellion and restore the Union. During that period, there was a remarkable degree of harmony of opinion and enthusiasm among the people in relation to the prosecution of the war. The principal, and in fact, almost the only discords, were in congress, in the cabinet,

among the generals in the field, and among the abolitionists, who were seeking to divert the war from its original and legitimate objects and purposes, and to convert it into a crusade against the institution of slavery.

Those proclamations operated immediately as apples of discord, to distract the public mind, to excite violent discussions in the newspapers, and among the politicians and people as to their tendencies, effects, and propriety. They immediately revived and aroused the old partizan feelings and passions of the country, which had mostly died away, and seemed dormant in all the states, at the elections in 1861; so much so, that the democratic party in the free states seemed to be as generally satisfied with the administration and policy of president Lincoln, as the republicans were. But those proclamations again excited a very violent partizan spirit, and called the old parties into the political field in battle array against each other; and the great number of arbitrary arrests made under the last proclamation for the mere expression of opinions, excited great numbers of the democratic party to a state of phrenzy, rendered the contest at the elections in October and November very violent, and caused the republican party to be overwhelmed in the states of Pennsylvania, Ohio, Indiana, Illinois, New York and New Jersey. If the Union should be finally lost, its loss may be fairly attributed to the division of opinion, the distraction of the public mind, the discordant and hostile feelings, and to the discussions excited and caused by those proclamations, and the policies inaugurated by them. But while I impugn the constitutional validity, wisdom, and expediency of those proclamations, I do not doubt the patriotism, the honesty of purpose, nor the good intentions of the president, in issuing them.

SEC. 18. CESSION OF PUBLIC LANDS AND TERRITORIES TO THE UNITED STATES.

The first difference of opinion and difficulty of any great magnitude which arose between the several states, was in relation to the public lands, and western territories. At the time the colonial charters were granted, the interior of the continent had not been explored, and its situation was unknown. The charters of many of the colonies purported to grant a strip of country across the

continent, to the Pacific Ocean. Under those colonial charters, the states of Virginia, North Carolina, Georgia, New York, and Connecticut, claimed large territories of wild and uncultivated lands in the west, while several of the states, including Maryland, Delaware, New Jersey, Rhode Island and New Hampshire, claimed none. It was insisted by the states having no western lands or territories that all the public lands so claimed by the other states, should be ceded to the United States, for the common benefit of the whole, to constitute a common fund, to aid in prosecuting the war and in paying the debt thereby created, for the benefit of all the states. On that account, Maryland refused to ratify the articles of confederation for nearly three years after they had been approved and ratified by nearly all the other states.

Finally, to remove those difficulties and jealousies, the state of New York set a noble example, and on the first day of March, 1781, ceded to the congress of the confederacy for the use and benefit of such of the states, as were, or should become partners to the articles of confederation, all the right, title, jurisdiction, and claim to all lands and territories lying west of the present limits of that state. That was the first cession made of the kind, and was the immediate cause of the state of Maryland ratifying the articles of confederation.

Virginia made a similar cession, March 1st, 1784, of all the lands and country claimed by her, lying north and west of the Ohio River.

Massachusetts made a similar cession, April 19th, 1785. Connecticut made a cession, September 13th, 1786. South Carolina made a like cession, August 9th, 1787, which, however, covered no lands or territory not claimed by the state of Georgia.

By those several cessions, congress obtained jurisdiction of all the country forming the present states of Ohio, Indiana, Illinois, Michigan, Wisconsin, and the north-eastern part of Minnesota, and it became necessary to adopt an organic law to provide for its future government. With that view, and for that purpose, the congress of the confederation adopted the ordinance of 1784.

SEC. 19. ORDINANCE OF CONGRESS OF 1784.

Immediately after the cession made by Virginia to the United States, in March, 1784, congress appointed a select committee to report a plan of government for the territories ceded—consisting of Thomas Jefferson, of Virginia, Samuel Chase, of Maryland, and Mr. Howell, of Rhode Island. That committee, anticipating an early cession to the United States, by the States of North Carolina and Georgia, of the lands and country now forming the states of Tennessee, Alabama, and Mississippi, by Mr. Jefferson, their chairman, reported an ordinance for the temporary government of all the territories of the United States—including such as might be thereafter acquired. It was drawn up by Mr. Jefferson, as follows, and has often been referred to since, as

THE JEFFERSON ORDINANCE OF 1784.

Resolved, That the territory ceded, or to be ceded by the individual states to the United States, whensoever the same shall have been purchased of the Indian inhabitants and offered for sale by the United States, shall be formed into additional states, bounded in the following manner, as nearly as such cession will admit: that is to say, northwardly and southwardly by parallels of latitude, so that each state shall comprehend from south to north, two degrees of latitude, beginning to count from the completion of thirty-one degrees north of the equator; [the then southern boundary of the U. S.] but any territory northwardly of the forty-seventh degree shall make part of the state next below. And eastwardly and westwardly they shall be bounded, those on the Mississippi, by that river on one side, and the meridian of the lowest point of the rapids of the Ohio on the other; and those adjoining on the east, by the same meridian on their western side, and on their eastern by the meridian of the western cape of the mouth of the Great Kanawha. And the territory eastward of this last meridian, between the Ohio, Lake Erie, and Pennsylvania, shall be one state.

That the settlers within the territory so to be purchased and offered for sale, shall, either on their own petition or on the order of congress, receive authority from them, with appointments of time and place, for their free males of full age to meet together for the

purpose of establishing a temporary government, to adopt the constitution and laws of one of these states, so that such laws nevertheless shall be subject to alteration by their ordinary legislature, and to erect, subject to like alteration, counties or townships for the election of members for their legislature.

That such temporary government shall only continue in force in any state until it shall have acquired twenty thousand free inhabitants, when, giving due proof thereof to congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution and government for themselves: Provided, that both the temporary and permanent governments be established on these principles as their basis:

1. That they shall forever remain a part of the United States of America.

2. That in their persons, property, and territory, they shall be subject to the government of the United States in congress assembled, and to the articles of confederation in all those cases in which the original states shall be subject.

3. That they shall be subject to pay a part of the federal debts, contracted or to be contracted, to be apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states.

4. That their respective governments shall be in republican forms, and shall admit no person to be a citizen who holds a hereditary title.

5. That after the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said states, otherwise than in punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty.

That whenever any of the said states shall have, of free inhabitants, as many as shall then be in any one of the least numerous of the thirteen original states, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the said original states; after which the assent of two-thirds of the United States in congress assembled, shall be requisite in all those cases wherein, by the confederation, the assent of nine states is now required, provided the consent of nine states to such

admission may be obtained according to the eleventh of the articles of confederation. Until such admission by their delegates into congress, any of the said states, after the establishment of their temporary government, shall have authority to keep a sitting member in congress, with a right of debating, but not of voting.

That the territory northward of the forty-fifth degree, that is to say, of the completion of forty-five degrees from the equator, and extending to the Lake of the Woods, shall be called *Sylvania;* that the territory under the forty-fifth and forty-fourth degrees, that which lies westward of Lake Michigan, shall be called *Michigania;* and that which is eastward thereof, within the peninsula formed by the lakes and waters of Michigan, Huron, St. Clair, and Erie, shall be called *Chersonesus;* and shall include any part of the peninsula which may extend above the forty-fifth degree. Of the territory under the forty-third and forty-second degrees, that to the westward, through which the Assenisipi or Rock River runs, shall be called *Assenisipia;* and that to the eastward, in which are the fountains of the Muskingum, the two Miamies of the Ohio, the Wabash, the Illinois, the Miami of the Lake, and the Sanduski rivers, shall be called *Metropotamia.* Of the territory which lies under the forty-first and fortieth degrees, the western, through which the Illinois river runs, shall be called *Illinoia;* that next adjoining to the eastward, *Saratoga;* and that between this last and Pennsylvania, and extending from the Ohio to Lake Erie, shall be called *Washington.* Of the territory which lies under the thirty-ninth and thirty-eighth degrees, to which shall be added so much of the point of land within the fork of the Ohio and Mississippi as lies under the thirty-seventh degree; that to the westward, within and adjacent to which are the confluences of the rivers Wabash, Shawnee, Tennessee, Ohio, Illinois, Mississippi, and Missouri, shall be called *Polypotamia;* and that to the eastward, further up the Ohio, otherwise called the Pelisipi, shall be called *Pelisipia.*

That all the preceding articles shall be formed into a charter of compact, shall be duly executed by the president of the United States in congress assembled, under his hand and the seal of the United States, shall be promulgated, and shall stand as fundamental conditions between the thirteen original states and those newly described, unalterable but by the joint consent of the United States,

in congress assembled, and of the particular state within which such alteration is proposed to be made.

On the 19th of April, the reported plan came up in congress for consideration. The southern states were generally opposed to the 5th proposition, prohibiting slavery in all the territories, after the year 1800. Under the articles of confederation, each state had but one vote, determined by a majority of its delegates—and the concurrence of a majority of all the thirteen states was necessary to carry any proposition. Hence the concurrence of a majority of the delegates from seven states was necessary.

The proposition to prohibit slavery, after the year 1800, was sustained by the unanimous vote of the states of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania—by one vote from New Jersey, one from North Carolina, and by Mr. Jefferson, from Virginia. The state of Virginia, by two delegates against one, and the states of Maryland and South Carolina voted against it. North Carolina was divided, Delaware and Georgia were not represented, and did not vote, and New-Jersey, not having a quorum present, the one vote cast was not counted. The proposition being sustained by only six states, was lost.

The ordinance thus amended, with the prohibitory clause struck out, and some other unimportant amendments made, was passed by congress on the 23d of April, 1784—all the delegates excepting those from South Carolina, voting for it.

The reader will perceive that the ordinance as amended and passed, provided that the people of the several territories, or contemplated new states, should enjoy the rights of self government, as to all local, domestic, and territorial matters, to nearly the same extent as the states do; including the subject of slavery, as well as all other subjects. It substantially established the doctrine of non-intervention by congress in the domestic affairs and government of the territories, and with the exception of a voting representation in congress, it put them on an equal footing with the states. It substantially conferred on the territories power to legislate for themselves in all cases of a domestic or territorial nature, and to confirm, establish, and regulate, or to abolish and prohibit slavery therein.

The ordinance of 1784, not being satisfactory to the people of the northern states, congress, on the 11th of July, 1787, appointed another committee to consider the subject, of which Nathan Dane, of Massachusetts, was chairman. That committee reported the wise and justly celebrated ordinance which was adopted by congress, on the 13th of July, 1787.

SEC. 20. ORDINANCE OF JULY 13TH, 1787, FOR THE GOVERNMENT OF THE TERRITORY OF THE UNITED STATES, NORTH-WEST OF THE RIVER OHIO.

PARAGRAPH 1. In relation to districts.
2. Rules of inheritance; personal property.
3. Appointment of governor.
4. Appointment of secretary; supreme court.
5. Legislature.
6. Officers of militia.
7. Civil officers.
8. Civil divisions of the district.
9. Representative government; general assembly.
10. Term of service; vacancies, how filled.
11. Constitution of the legislative power; vacancies, how filled; governor's assent to bills.
12. Oath of office; delegates to congress.
13. Provisions for the establishment of states.
14. Articles of compact.

ARTICLE I.
Religious worship.

ARTICLE II.
The writ of habeas corpus; bail; fines; compensation for property taken for public service; laws not to affect private contracts.

ARTICLE III.
Education; Indians.

ARTICLE IV.
Territory to remain a part of the confederacy; taxes; federal debts; disposition of the soil; United States lands not to be taxed; navigable waters.

ARTICLE V.
States, how to be formed in the territory: boundary of western state; middle state; eastern state; when admitted into the Union.

ARTICLE VI.
Slavery prohibited; proviso.
Resolutions repealed

1. Be it ordained by the United States in congress assembled, that the said territory, for the purpose of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of congress, make it expedient.

2. Be it ordained by the authority aforesaid, that the estates, both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to and be distributed among their children, and the descendants of a deceased child, in equal parts; the descendants of a deceased child or grandchild, to take a share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal

parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descendants and dower shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws, as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed or sealed by him or her, in whom the estate may be, (being of full age), attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French Canadian inhabitants, and other settlers of the Kaskaskias, Vincennes, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

3. Be it ordained by the authority aforesaid, that there shall be appointed, from time to time, by congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

4. There shall be appointed from time to time, by congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of congress. There

shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commission shall continue in force during good behavior.

5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original states, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to congress from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

6. The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by congress.

7. Previous to the organization of the general assembly, the governer shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized, the powers and duties of the magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed shall, during the continuance of this temporary government, be appointed by the governor.

8. For the prevention of crimes and injuries, the laws to be adopted or made, shall have force in all parts of the district, and for the execution of process, criminal or civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

9. As soon as there shall be five thousand free male inhabitants of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect

representatives from their counties or townships, to represent them in the general assembly: Provided, that for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which, the number and proportion of representatives shall be regulated by the legislature: Provided, that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: Provided also, that a freehold in fifty acres of land in the district, or the like freehold, and two year's residence in the district, shall be necessary to qualify a man as an elector of a representative.

10. The representative thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

11. The general assembly, or legislature, shall consist of the governor, legislative council, and house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by congress; any three of whom to be a quorum. And the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to congress; five of whom congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to congress; one of whom congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of

the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to congress; five of whom congress shall appoint and commission to serve as members of the council for five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared: And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly, when in his opinion it shall be expedient.

12. The governor, judges, legislative council, secretary, and such other officers as congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office; the governor before the president of congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled in one room, shall have authority, by joint ballot, to elect a delegate to congress, who shall have a seat in congress, with a right of debating, but not of voting, during this temporary government.

13. And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and to establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory; to provide also for their admission to a share in the federal councils, on an equal footing with the original states, at as early periods as may be consistent with the general interest:

14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE I.

No person demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and trial by jury; of a proportionate representation of the people in the legislature, and judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with or affect private contracts or engagements, bona fide, and without fraud previously formed.

ARTICLE III.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent, and in their property, rights, and liberty, they shall never be disturbed, unless in just and lawful wars, authorized by congress; but laws, founded in justice and humanity, shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United

States of America, subject to the articles of confederation, and to such alterations as shall be constitutionally made; and to all the acts and ordinances of the United States in congress assembled, conformably thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion shall be laid or levied by the authority and direction of the legislature of the district or districts, or new states, as in the original states, within the time agreed upon by the United States in congress assembled. The legislature of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western state in the said territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn by the Wabash, and Post Vincents, due north to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the great Miami, to the said territorial line, and by

the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania and the said territorial line: provided however, and it is further understood and declared, that the boundaries of these three states shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government. Provided, the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as can be consistent with the general interests of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service, as aforesaid.

Be it ordained by the authority aforesaid, that the resolutions of the 23d of April, one thousand seven hundred and eighty-four, relative to the subject of this ordinance, be and the same are hereby repealed, and declared null and void.

Done by the United States, in congress assembled, the thirteenth day of July, in the year of our Lord one thousand seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.

WILLIAM GRAYSON, *Chairman.*

CHARLES THOMPSON, *Secretary.*

On the 5th of July, 1786, congress passed a resolution requesting the legislature of Virginia to revise the act of cession so far as relates to the division into states, of the country ceded, as follows, viz:

Resolved, That it be, and it hereby is, recommended to the legislature of Virginia, to take into consideration their acts of cession, and revise the same so far as to empower the United States in congress assembled, to make such a division of the territory of the United States, lying northerly and westerly of the river Ohio, into distinct republican states, not more than five nor less than three, as the situation of that country, and future circumstances, may require; which states shall hereafter become members of the federal union, and have the same rights of sovereignty, freedom, and independence, as the original states, in conformity with the resolution of congress, of the tenth of October, 1780.

In pursuance of the foregoing resolution of congress, the legislature of Virginia, on the 30th of September, 1788, passed the following act, to revise, ratify, and confirm the article of compact contained in the ordinance of 1787, as follows, viz:

Whereas the United States, in congress assembled, did, on the seventh day of July, in the year of our Lord one thousand seven hundred and eighty-six, state certain reasons, showing that a division of the territory which hath been ceded to the United States, by this commonwealth, into states, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower congress to make such a division of the said territory into distinct and republican states, not more than five nor less than three in number, as the situation of that country, and future circumstances might require. And the United States, in congress assembled, have, in an ordinance for the government of the territory north-west of the river Ohio, passed on the thirteenth of July, one thousand seven hundred and eighty-seven, declared the following as one of the articles of compact between the original states and the people and states in the said territory, viz:

[Here the fifth article of compact, of the ordinance of congress, of 13th July, 1787, as inserted above is recited verbatim.]

And it is expedient that this commonwealtdoh, assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original states and the people and states in the said territory.

2. Be it therefore enacted, by the general assembly, that the aforesaid article of compact between the original states and the people and states in the territory north-west of the Ohio river, be, and the same is hereby ratified and confirmed, any thing to the contrary in the deed of cession of the said territory by this commonwealth to the United States, notwithstanding.

To adapt the ordinance of 1787 to the constitution of the United States, and to the government under it, and to provide for carrying it into effect, congress passed the following act, which was approved by George Washington, president of the United States, on the 7th of August, 1789.

Whereas, in order that the ordinance of the United States in congress assembled, for the government of the territory north-west of the river Ohio

may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present constitution of the United States:

Sec. 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled*, That in all cases in which by the said ordinance, any information is to be given, or communication made by the governor of the said territory to the United States in congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information and to make such communication to the president of the United States; and the president shall nominate, and by and with the advice and consent of the senate, shall appoint all officers which by the said ordinance were to have been appointed by the United States in congress assembled, and all officers so appointed, shall be commissioned by him: and in all cases where the United States in congress assembled, might by the said ordinance, revoke any commission or remove from any office, the president is hereby declared to have the same powers of revocation and removal.

2. *And be it further enacted*, That in case of the death, removal, resignation, or necessary absence of the governor of the said territory, the secretary thereof shall be, and he is hereby authorized and required to execute all the powers, and perform all the duties of the governor, during the vacancy occasioned by the removal, resignation, or necessary absence of the said governor.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the House of Representatives.

JOHN ADAMS,
Vice President of the United States and President of the Senate.

GEORGE WASHINGTON,
President of the United States.

SEC. 21. CESSIONS OF LANDS AND TERRITORIAL JURISDICTION BY NORTH CAROLINA AND GEORGIA.

The people of North Carolina, by their representatives in convention, finally ratified the constitution of the United States on the 13th of November, 1789, and again came into the Federal Union. [See ante. p. 61.] In December, of the same year, the legislature of the state passed an act "authorizing, empowering, and requiring the senators of the state in the congress of the United States to execute a deed or grant on the part and behalf of the state, conveying to the United States of America all right, title, and claim which that state held to the sovereignty and territory of the lands situated within the chartered limits of the state," lying west of the present limits of North Carolina, and comprising the present state of Tennessee, on certain conditions; and the deed of cession was executed accordingly, on the 25th day of February, 1790, by Samuel Johnston and Benjamin Hawkins, senators as aforesaid, and was accepted by an act of congress, approved April 2d, 1790.

The important parts of the deed of cession, exclusive of the boundaries, and the second condition, reserving the lands previously granted by the state, are as follows, viz:

To all who shall see these presents: We, the underwritten Samuel Johnston and Benjamin Hawkins, senators in the congress of the United States of America, duly and constitutionally chosen by the legislature of the state of North Carolina, send greeting:

Whereas the general assembly of the state of North Carolina, on the —— day of December, in the year of our Lord one thousand seven hundred and eighty-nine, passed an act, entitled "An act for the purpose of ceding to the United States of America certain western lands therein described," in the words following, to wit:

Whereas the United States, in congress assembled, have repeatedly and earnestly recommended to the respective states in the Union, claiming or owning vacant western territory, to make cessions of part of the same, as a further means, as well of hastening the extinguishment of the debts, as of establishing the harmony of the United States; and the inhabitants of the said western territory being also desirous that such cession should be made, in order to obtain a more ample protection than they have heretofore received: Now this state, being ever desirous of doing ample justice to the public creditors, as well as the establishing the harmony of the United States, and complying with the reasonable desires of her citizens;

Be it enacted by the general assembly of the state of North Carolina, and it is hereby enacted by the authority of the same, That the senators of this state, in the congress of the United States, or one of the senators and any two of the representatives of this state, in the congress of the United States, are hereby authorized, empowered, and required to execute a deed or deeds, on the part and behalf of this state, conveying to the United States of America, all right, title and claim, which this state has to the sovereignty and territory of the lands situated within the chartered limits of this state, west of a line, beginning on the extreme height of the Stone mountain, at the place where the Virginia line intersects it. [The boundaries are here given.] * * * * * * Upon the following express conditions, and subject thereto, that is to say: First, That neither the lands nor the inhabitants, westward of the said mountain, shall be estimated, after the cession made by virtue of this act shall be accepted, in the ascertaining the proportion of this state with the United States, in the common expense occasioned by the late war. Secondly, that the lands laid off, or directed to be laid off, by any act or acts of the general assembly of this state, for the officers and soldiers thereof, their heirs and assigns respectively, shall be, and enure to the use and benefit of the said officers, their heirs, and assigns respectively. * * * * * * Thirdly, that all the lands intended to be ceded by virtue of this act to the United States of America, and not appropriated as before mentioned, shall be considered as a common fund, for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall faithfully be disposed of for that purpose, and for no other use or purpose whatever. Fourthly, that the territory so ceded shall be laid out and formed into a state or states, containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late congress, for the government of the western territory of the United States, that is to say: Whenever the congress of the United States shall cause to be officially transmitted, to the executive authority of this state, an authenticated copy of the act to be passed by the congress of the United States, accepting the cession of territory made by virtue of this act, under the express conditions hereby specified, and said congress shall, at the same time, as-

sume the government of the said territory, which they shall execute in a manner similar to that which they support in the territory west of the Ohio; shall protect the inhabitants against enemies, and shall never bar or deprive them of any privileges which the people in the territory west of the Ohio enjoy. Provided, always, That no regulations made, or to be made by congress, shall tend to emancipate slaves. Fifthly, that the inhabitants of the said ceded territory shall be liable to pay such sums of money as may, from taking their census, be their just proportion of the debt of the United States, and the arrears of the requisitions of congress on this state. Sixthly, that all persons indebted to this state, residing in the territory intended to be ceded by virtue of this act, shall be held and deemed liable to pay such debt or debts in the same manner, and under the same penalty or penalties, as if this act had never been passed. Seventhly, that if the congress of the United States do not accept the cession hereby intended to be made, in due form, and give official notice thereof to the executive of this state, within eighteen months from the passing of this act, then this act shall be of no force or effect whatsoever. Eighthly, that the laws in force and use in the state of North Carolina, at the time of passing this act, shall be and continue in full force within the territory hereby ceded, until the same shall be repealed, or otherwise altered by the legislative authority of the said territory. Ninthly, that the lands of non-resident proprietors, within the said ceded territory, shall not be taxed higher than the lands of residents. Tenthly, that this act shall not prevent the people now residing south of French Broad, between the rivers Tennessee and Big Pigeon, from entering their pre emptions in that tract, should an office be opened for that purpose, under an act of the present general assembly. And be it further enacted, by the authority aforesaid, that all the soveregnty and jurisdiction of this state, in in and over the territory aforesaid, and all and every the inhabitants thereof, shall be and remain the same in all respects, until the congress of the United States shall accept the cession to be made by virtue of this act, as if this act had never passed.

Read three times, and ratified in general assembly, the day of December, A. D. 1789.

CHAS. JOHNSON, Sp. Sen.
S. CABARRUS, Sp. H. C.

Now, therefore, know ye, that we, Samuel Johnston, and Benjamin Hawkins, senators aforesaid, by virtue of the power and authority committed to us by the said act, and in the name, and for and on behalf of the said state, do, by these presents, convey, assign, transfer, and set over, unto the United States of America, for the benefit of the said states, North Carolina inclusive, all right, title, and claim, which the said state hath to the sovereignty and territory of the lands situated within the chartered limits of the said state, as bounded and described in the above recited act of the general assembly, to and for the uses and purposes, and on the conditions, mentioned in the said act.

In witness whereof, we have hereunto subscribed our names and affixed our seals, in the senate chamber at New York, this 25th day of February, in the year of our Lord one thousand seven hundred and ninety, and in the 14th year of the independence of the United States of America.

SAM. JOHNSTON, [L. S.]
BENJ. HAWKINS, [L. S.]

Signed, sealed, and delivered, in the presence of SAMUEL A. OTIS.

Congress accepted the cession with all the conditions annexed to it, including the fourth, that the territory ceded should be

admitted into the Union as a state, when the inhabitants thereof should number 60,000, and with the further proviso, "*That no regulations made or to be made by congress should tend to emancipate slaves.*" That proviso effectually prohibited congress from interfering with slavery while the country should remain a territory of the United States; and after its admission as a state, slavery therein was protected by the federal constitution, from congressional interference.

The reader will observe from the recitals in the second paragraph of the deed that the objects of the cession were, *first, to aid in extinguishing the public debt of the United States; and, secondly, to promote harmony among the states.* It would have been much better for our country, if the people of all parts of the Union had continued until this time, *equally solicitous to promote harmony among the states.*

CESSION OF GEORGIA.

In pursuance of acts of congress and of the state legislature of Georgia, an article of agreement and deed of cession was entered into between the United States and the state of Georgia, bearing date, April 24th, 1802, by which the state of Georgia ceded to the United States all the right, title, and claim, which the said state had to the jurisdiction and soil of the lands situated within the United States, south of Tennessee, and west of the present limits of Georgia, on several express conditions, among which are the following, viz:

Thirdly. That all the lands ceded by this agreement to the United States shall, after satisfying the above-mentioned payment of one million two hundred and fifty thousand dollars to the state of Georgia, and the grants recognized by the preceding conditions, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever.

* * * * * * * *

Fifthly. That the territory thus ceded shall form a state, and be admitted as such into the Union, as soon as it shall contain sixty thousand free inhabitants, or at an earlier period if congress shall think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner, as is provided in the ordinance of congress of the 13th day of July, one thousand seven hundred and eighty-seven, for the government of the western territory of the United States; which ordinance shall, in all its parts, extend to the territory contained in the present act of cession, that article only excepted which forbids slavery.

The ordinance of 1787 provided that the territory north-west of the Ohio river should be divided into not less than three nor

more than five states—each of which should be admitted into the Union on the same footing as the original states; that is, as an independent and sovereign state, for all municipal and domestic purposes, whenever the same should contain 60,000 inhabitants. The reader will observe, that the deeds of cession by North Carolina and Georgia, secured to the people of the territories ceded, the same rights of eventual admission into the Union, as sovereign and independent states, on an equal footing with the original states; the deed of cession of North Carolina also provided that congress should not in the mean time pass any law that might tend to emancipate slaves in Tennessee; and the proviso in the ordinance of 1787, prohibiting slavery, was not to apply to the territories ceded by Georgia, by reason of the exception in the grant. That exception, by implication, inhibited congress from interfering with slavery in the territory ceded.

Kentucky remained a part of the slave state of Virginia, until it was allowed by an act of the legislature of Virginia, (approved by congress), to form a constitution and establish a state government for itself, when it was admitted by congress into the Union, as a sovereign and independent state, with the same rights and powers as the original states—including the power and constitutional right to hold slaves—which the free inhabitants of the states then enjoyed.

Hence we see, that the states of Virginia, North Carolina and Georgia, agreed to the ordinance of 1787, to make all the territory north of the Ohio river, free states, while Virginia retained Kentucky, and made it a slave state; North Carolina provided that Tennessee should be made a slave state; Georgia provided that Alabama and Mississippi also should be made slave states. Here we witness the spirit of compromise, clearly and manifestly intended as a means of harmony among the states and the people thereof. By the compromise, the south agreed that all north of the Ohio river should be assigned and dedicated to freedom and free men, and at the same time retained all south of that river as the heritage of slaveholders and their descendants, together with such non-slaveholding freemen as were friendly to the institution of slavery, and opposed to the general emancipation of slaves of African descent. As between the white population of the north and

the south, the division of the territories was very nearly equal, and eminently equitable and just, and therefore it preserved the peace and harmony of the United States for about thirty years, and until a contest arose about the proper division as between the free and slave states of territory subsequently acquired, lying west of the Mississippi river.

Sec. 22. PURCHASE OF LOUISIANA, AND THE TERMS OF THE TREATY OF PURCHASE.

In 1803, Mr. Jefferson, then president of the United States, purchased of Napoleon Bonaparte, then First Consul of France, the vast country then known as the Province of Louisiana, comprising the present states of Louisiana, Arkansas, Missouri, Iowa, Minnesota, Kansas, and Oregon, the Indian territories west of Arkansas, the territories of Nebraska, Dacotah, and Washington, and a portion of the present territory of Colorado. The 3d article of the treaty was as follows, viz:

Art. III. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

That article was introduced by Napoleon to secure to the French and Spanish inhabitants, (who were Catholics), their civil and religious rights and liberties, and their eventual incorporation into the American Union. Slavery then existed in all the French and Spanish settlements, and was legalized and established by the laws and usages of the province. Under the 3d article of the treaty and the laws of the province, African slaves were regarded as property, and the rights of their masters to retain and hold them as property was as fully guaranteed to them, by the treaty, as their rights to any other kind of property. But that guaranty had reference only to the slaves then in the province, and not to slaves that might thereafter be purchased and introduced from other states or countries, nor to those that might be thereafter born in the province. That article did dot inhibit congress, nor limit their power to prohibit the further introduction of slaves into that country, nor to provide that all children thereafter born of female slaves should be free, nor to adopt a system of emancipation by

compensating the masters for the loss of their property in the slaves that might be emancipated. The sole object and effect of so much of the article as protected the slave property of the inhabitants, was to save their rights, so that they should not be despoiled of their property in slaves, which they then held in the province, acquired under the protection and sanction of the laws thereof. It did not prohibit any reasonable prospective legislation upon the subject of slaves and slavery. It did not contain any such inhibition as the deeds of cession of North Carolina and Georgia. [See ante. p. 135, 136, and 137.]

SEC. 23. TERRITORIAL GOVERNMENTS AND LAWS ESTABLISHED IN AND FOR THE LOUISIANA PURCHASE.

Congress passed an act which was approved by President Jefferson, March 26th, 1804, entitled "An act erecting Louisiana into two territories, and providing for the temporary government thereof." It provided for the establishment of a territoral government for so much of that country as now constitutes the state of Louisiana —calling it the territory of Orleans, and calling all the remaining portion of the province the district of Louisiana; and providing that the latter should be subject to, and governed by, the governor and judges of the Indiana territory.

The 10th section of the act prohibited, under severe penalties, the importation into the territory of Orleans, of any slave or slaves from beyond the limits of the United States. The 11th section of the act applying to the territory of Orleans, was as follows, viz:

Sec. 11. The laws in force in said territory, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the legislature.

The 13th section, applying to the district of Louisiana, was as follows, viz:

Sec. 13. The laws in force in said district of Louisiana, at the commencement of this act, and not inconsistent with any of the provisions thereof, shall continue in force until altered, modified, or repealed by the governor and judges of the Indiana territory, as aforesaid.

Slavery having been previously established in the province of Louisiana by the Spanish and French laws, those laws and the whole pro-slavery code of laws, usages, and customs, as well as statutes and royal ordinances, which constituted laws, were recognized by the treaty of purchase, and ratified and confirmed by the

11th and 13th sections aforesaid, of that organic act; whereby congress directly recognised and confirmed slavery, and the laws relating thereto, in the whole Louisiana purchase, and at the same time exercised their sovereign power to prohibit the further introduction of slaves from Africa, or any state or country beyond the limits of the United States.

Under an act of congress, approved March 3d, 1805, a territorial government, separate from Indiana, was established for the district of Louisiana, calling it the Territory of Louisiana. The 9th section of that act provided that the laws and regulations then in force therein, should continue in force until altered, modified, or repealed by the legislature of the territory.

The effect of those two organic acts, of March 26th, 1804, and March 3d, 1805, was to approve the slave laws of the territory, to recognize their application to large districts of country having no white settlements, and to sanction the introduction of slaves into all parts of the territory, north to the 49th degree of latitude, and west to the Pacific ocean; though there were not, at either of those periods, perhaps ten slaves north and west of the present limits of the state of Missouri. Congress and President Jefferson made a very great mistake in sanctioning such laws; and the same grave error was again repeated by congress and President Madison, in reorganizing the territorial government in 1812.

On the admission of the state of Louisiana into the Union, congress passed an act, approved June 4th, 1812, to change the name of the territory of Louisiana, and to call it Missouri, and to reorganize the government thereof, giving it full legislative powers, vested in a general assembly, consisting of the governor, appointed by the president, by and with the advice and consent of the senate, and a house of representatives, to be elected by the people for two years, and a legislative council of nine, to be appointed as follows, viz: from eighteen persons nominated by the house of representatives of the territory, the president of the United States should select, and by and with the advice and consent of the senate, appoint and commission nine, as members of the legislative council, for five years. An absolute veto was given to the governor over the acts of the legislature.

It was provided in the 16th section, "that the laws and regulations in force in the territory of Louisiana, at the commencement of this act, and not inconsistent with the provisions thereof, should continue in force until altered, modified, or repealed by the general assembly."

Slaves had been introduced by the French and Spanish settlers into all the settlements in the province of Louisiana, including those in Missouri. Slavery was sanctioned by the laws of the province and of the subsequent territory, and by the 16th section of said organic act, congress ratified and confirmed the slave code of the territory, for the third time, and recognized and confirmed slavery therein, and gave the territorial legislature power to regulate or abolish it.

By the census of 1810, Louisiana territory, then comprising Missouri and Arkansas had 17,227 white inhabitants, 607 free colored persons, and 3,011 slaves; total, 20,845; more than five-sixths of whom were within the present limits of Missouri, mostly on the Mississippi river and its tributaries, in the immediate vicinity of that river. It may well be doubted if there were a thousand slaves within the present limits of Missouri, in 1803, when it was purchased, or even in March, 1805, when the first territorial government was established for it, separate from the territory of Indiana. Then was the time, when the compromise principle in relation to slavery, which obtained at the organization of the government, should have been applied to the new purchase; the compromise line should have been extended west from opposite the mouth of the Ohio river or in that vicinity; and the further introduction of slaves, north of that line, should have been prohibited. By thus carrying out the original compromise policy of the government, and dividing the newly organized territories nearly equally between the people of the free and the slave states, Missouri would have been thereafter settled by free men only, from the slave as well as from the free states, and would have become, and been admitted as a free state.

That was the first great error upon the subject of slavery, which was committed by the congress of the United States; and that error was again repeated, June, 1812, when congress reorganized the territorial government, and for the first time called it the terri-

tory of Missouri. The slaves were so few in number at those periods, that there would have been no great practical difficulty in extending the compromise line west of the Mississippi, and thus saving Missouri from the dominion of slavery; and if presidents Jefferson and Madison had been as anxious to limit and extinguish slavery as many republicans now seem to think, there is no reason to doubt that it would have been done. In 1820, the slaves in Missouri had increased to 10,222, which rendered it impossible for congress to abolish slavery therein, or to exclude its admission into the Union as a slave state, without dissolving the Union itself.

Under an act of congress, approved March 2d, 1819, a new territory was formed of the southern part of Missouri, which was then called Arkansas territory, and a separate territorial government was organized for the same. By the 10th section of the act, it was provided that the laws in force in the territory of Missouri, on the 4th of July, 1819, applicable to Arkansas, and not inconsistent with that act, should continue in force in Arkansas territory, until modified or repealed by the legislative authorities of the territory.

Sec. 24. The Missouri Compromise.

In pursuance of several petitions of the inhabitants, praying the admission into the Union as a state, of a portion of Missouri territory, nearly corresponding with the present state of Missouri, a bill was reported by a select committee of the house of representatives, on the 3d of April, 1818, to authorize the people of the territory to form a constitution and a state government, and for the admission of such state into the Union, on an equal footing with the original states. The bill was read a first and second time, and referred to the committee of the whole, but did not come up for consideration until the next session. On the 13th of July, 1819, the house went into committee of the whole upon the bill, and after a warm debate, adopted the following amendment as a proviso to the bill, viz:

And provided also, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall be duly convicted; and that all children of slaves, born within the said state, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years.

On coming out of committee, the yeas and nays were called on the question, first of agreeing to so much of the amendment as precedes and includes the word "*convicted*," and the same was sustained by eighty-six yeas from the free states, and one from Delaware, there being sixty-six nays from the slave states, and ten from the free states. The remainder of the amendment, following the word "*convicted*," was sustained by yeas, eighty-two, nays seventy-eight—only four majority. This was the first renewal of the contest between the north and the south on the slavery question, since the organization of the government under the constitution of the United States. The contest and the debates in the convention which formed the constitution of the United States upon subjects connected with slavery, were long and violent, and at several periods threatened a dissolution of the convention without forming any constitution. Such a result would have sounded the death-knell of the Union, and destroyed the peace, harmony, and prosperity which have been enjoyed under the constitution during a period of seventy years. But a more conciliatory spirit finally prevailed—several compromises were effected and agreed upon as fundamental articles and corner-stones of the constitution, and that wisest, and on the whole, the best of all the constitutions ever formed by man, was agreed upon with great harmony, signed by all the members present, and reported to the congress of the confederation. [See ante. pages 42 to 59.]

From the adoption of the constitution, in 1788, to the time of the debate on the Missouri bill, in 1819, there had been no debates, and no controversies on sectional grounds, and no sectional parties had arisen in the United States. The contest on the Missouri bill was the renewal of the old sectional controversy which had arisen in the constitutional convention in 1787.

The Missouri bill as amended, was ordered by the house to be read a third time, by yeas, 98, nays, 56. It passed the house the next day, February 16, and was sent to the senate.

On the 23d of Febuary, a committee of the senate reported the bill with an amendment striking out the restrictions in relation to slavery. The senate voted to strike out the last part of the restriction after the word "*convicted*," by twenty-seven yeas, for striking it out, to seven nays. The vote to strike out the first part of the restriction was yeas, 22, nays, 16.

The bill as amended by striking out the restriction against slavery, was passed by the senate and returned to the house of representatives. The house, by a vote of seventy-six yeas to seventy-eight nays, refused to concur in the amendments of the senate; the senate voted to adhere to their amendments, and thus the bill was lost by the disagreement of the two houses.

The subject was again introduced into congress, at the opening of the next session, in December, 1819, and into the legislatures of several of the states, including New York, New Jersey, Pennsylvania, Delaware and Kentucky; and the question more or less agitated the whole Union. After a long and violent contest in both houses of congress, which threatened the dissolution of the Union, a compromise was finally effected through the influence of the more conservative and conciliatory members. An act was passed and approved, March 6th, 1820, to authorize the people of Missouri to form a constitution and state government, and to prohibit slavery in all that part of the Louisiana purchase, lying north and west from that state. The following is the 8th section of that act, viz:

And be it further enacted, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees thirty minutes north latitude, not included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crime, whereof the party shall have been duly convicted, shall be and is hereby forever prohibited. Provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any state or territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

The compromise section to exclude slavery from all the territories of the United States, lying north of 36½ degrees of north latitude, was introduced into the senate by Mr. Thomas, of Illinois, and was adopted by thirty-four yeas to ten nays, twenty members from the free states, and fourteen from the slave states voting for it, and two from Indiana, and eight from the slave states voting against it.

The act as finally passed contained no restriction to the admission of Missouri as a slave state; the senate having amended the house bill, by striking out the provision relating to slavery in the state of Missouri, the house, after a long struggle, accepted the 8th section of the act as above stated, as a substitute for it, as a

matter of compromise, and by a vote of ninety yeas, (fourteen from the free states and seventy-six from the slave states), to eighty-seven nays, all from the free states, agreed to the amendment of the senate; and thus the bill became a law. By that compromise, the southern states secured the admission of Missouri as a slave state; and the northern states secured to the cause of freedom, and for the use of freemen only, all the territory of the United States, lying north and west of that state. That compromise effectually quieted the agitation of the slavery question for about fifteen years, and until after the formation of a political party of abolitionists in Massachusetts and other northern states; and it tended to give peace to the country until its repeal in 1854.

SEC. 25. FREE COLORED PERSONS BORN IN THE UNITED STATES, RECOGNIZED BY CONGRESS AS CITIZENS.

In pursuance of the act of congress, granting leave to do so, members were elected to a convention to form a constitution for the state of Missouri, and the convention met and formed a constitution, which was presented to congress in November, 1820. It contained the following provision, viz:

> "It shall be the duty, (referring to the legislature of the state), as soon as may be, to pass such laws as may be necessary, first, to prevent free negroes and mulattoes from coming to, and settling in this state, under any pretext whatever."

That provision of the constitution was immediately objected to by northern members, as conflicting with section 2, of Article IV, of the constitution of the United States, which provides that "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."

At that time, the constitution and laws of New York, New Jersey, Pennsylvania, and the New England states, made no distinction between white persons and free colored persons; and if the latter were born within the United States, even if they were emancipated slaves of African descent, they were recognized by the laws as citizens, and allowed the elective franchise on the same conditions as white citizens. A resolution to admit Missouri into the Union as a state, with that constitution, was voted down in the house of representatives by ninety-three nays to seventy-nine yeas. After a long contest, of more than three months, and violent de-

bates in both houses, which agitated the whole country, on the report of a joint committee of the house and senate, of which Mr. Clay, of Kentucky, was chairman, a compromise resolution was passed, which finally settled the controversy. It was as follows, viz:

Resolution providing for the admission of the state of Missouri into the Union, on a certain condition.

Resolved by the senate and house of representatives of the United States of America, in congress assembled, That Missouri shall be admitted into this Union on an equal footing with the original states, in all respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said state to congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen, of either of the states of this Union, shall be excluded from the enjoyment of any of the privileges and immunities to which such sitizen is entitled under the constitution of the United States: Provided, That the legislature of the said state, by a solemn public act, shall declare the assent of the said state to the said fundamental condition, and shall transmit to the president of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof, the president, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of congress, the admission of the said state into this Union shall be considered as complete.

By that resolution, the congress of the United States that passed it, in very clear and explicit language, recognized that free colored persons of African descent, born in the United States, were and are, citizens, whose rights in the several states were and are guaranteed by the constitution of the United States; and for that reason, and that only, the foregoing provision of the state constitution was objectionable. The resolution of congress could refer to no other class of citizens, and admits of no other explanation, consistent with the circumstances, and with the legal rights and conditions of the several classes of persons in the United States.

SEC. 26. REVIEW OF THE ACTION OF CONGRESS UPON THE SUBJECT OF SLAVERY.

The first difficulty in relation to the subject of slavery, arose in congress, in 1784, in acting upon the ordinance for the government of the territories, drawn up by Mr. Jefferson. The opposition of the south to the provision prohibiting slavery in the territories after the year 1800, defeated it for the time. If that ordinance had been adopted and adhered to, with the prohibitory provision in it,

the result would have been, that North Carolina and Georgia would never have ceded their western lands and territories to congress, and that would have remained a subject of bitter feeling and controversy between the states, and very likely it would have prevented the adoption of the present constitution.

The ordinance of 1787, was adopted to satisfy the north —Virginia retaining Kentucky, to be formed into a slave state, and North Carolina and Georgia afterwards made cessions, on condition that congress should not interfere with slavery in the territories ceded by them. By that arrangement, amounting to a compromise, all the territories north of the Ohio river, were dedicated to freedom and freemen; and all south of that river were retained by the friends of slavery, to be settled by themselves and their posterity, with their slaves.

The great mistake of the congress of the United States, was in not extending that compromise line from the mouth of the Ohio, west of the Mississippi river, at the time of subjecting the district of Louisiana to the governor and judges of the territory of Indiana, in March, 1804. That mistake was repeated in establishing a separate territorial government for that country, and calling it the territory of Louisiana, in March, 1805. Congress fell into the same great error, the third time, on reorganizing the territorial government, in June, 1812, and recognizing and confirming slavery, and authorizing its introduction into all the new settlements that might be thereafter made in the territory, north to the British possessions, and west to the Pacific ocean. Congress corrected that great error by the Missouri compromise, in 1820, so far as it was practicable to do so, without endangering, and perhaps destroying the Union.

The proper way to restrict slavery and prevent its extension, is to prohibit its introduction into new settlements, and into new districts of country; and the proper mode to secure the admission of a territory as a free state, is to make it a free territory, when it has but few inhabitants, that it may be settled exclusively by freemen, who are in favor of free institutions. To make Missouri a free state, in 1820, after it had been settled by slaveholders with their slaves, was practically impossible; and it was at all times impossible for

congress to make Kentucky, Tennessee, Alabama, or Mississippi a free state.

Congress should not only confine their action within their constitutional powers, but they should pay some heed to the opinions and prejudices of the people of the several states, with a view to promote harmony, as much as possible, between the states, and among the people of all sections of the Union. A temporary, or mere sectional majority, should not force upon the country measures that are violently opposed by the great mass of the people in large portions of the United States; much less should they adopt extreme measures, which the public sentiment of the nation will not maintain.

After the acquisition of California, New Mexico, and Utah, it was utterly impossible for congress to agree upon a plan to govern those countries, on account of the differences of opinion and the discussions between the north and the south, as to the prohibition or the introduction of slavery into them. Hence congress was unable to agree upon territorial bills for them in 1848 or 1849, and not until the non-intervention doctrine embodied in Mr. Clay's compromise, was finally adopted, in September, 1850. Instead of settling the slavery question in congress for the territories, that compromise left it to the people of each territory to quarrel it out among themselves, and to settle it in their respective territorial legislatures. That was the only practicable mode of obviating the difficulties and dissensions then existing in our country; and it worked well for several years, and until after the repeal of the Missouri compromise, in 1854. The principal difficulties in Kansas grew out of an outside struggle between the people of the free and the slave states—on one side to make it a free state, and on the other to make it a slave state. As to all the other territories, the non-intervention doctrines have worked well, and they contributed largely to give peace to the nation.

SEC. 27. THE COMPROMISES OF CONGRESS, AND OF THE CONSTITUTIONAL CONVENTION WHICH FORMED THE CONSTITUTION OF THE UNITED STATES.

The first congress of the thirteen colonies, then called the continental congress, met at Philadelphia, April 5th, 1774; and the second one met at the same place, May 10th, 1775. From that

time until the present, congress has assembled annually, and sometimes twice in one year. Prior to the adoption of the articles of confederation, in March, 1781, there was no constitution, treaty or compact, which united the colonies or states. The union was in a measure spontaneous and voluntary, springing from a common danger and the necessity of uniting their strength to protect themselves from a common enemy. (See ante. p. 19.) Congress had, for more than six years, no power over the states or the people, and no political power whatever. They had simply a moral and advisory power; but the advisory power was obeyed by the states and the people, and was carried into effect as implicitly, for years, without any articles of compact, as it was after the adoption of the articles of confederation.

Congress then acted by resolutions, not by formal statutes; but it was necessary to adopt some rule, to determine when a resolution was passed, and to settle the relative power of the states in congress. The large states claimed, with great reason, that they were entitled to more power in congress than the small states of Rhode Island, Delaware, and Maryland. But the latter claimed that they were all equal, and that after the declaration of independence, they were all sovereign and independent states, with entire equality of rights, and they insisted on equality of power in congress. The claim of equal powers in congress was finally yielded to by the largest and most populous states, as a matter of necessity, in order to form and cement a union between all the states. It was finally assented to as a matter of expediency, and not as a matter of justice. It was settled that each state should be represented in congress by two or more delegates or members, and that each state should have but one vote, to be determined and cast by a majority of its delegates.

1*st. Equality of power of the States, under the Confederation.*

The question of the relative powers in congress of the several states, was a great and fundamental question of political power, far-reaching in its influence; and there were great difficulties in settling it, owing to the rivalship and jealousies between the states. *Its settlement may properly be regarded as the first great compromise upon which the American Union was based.*

That principle of equality in congress between states, equal in power and sovereignty, on all local and municipal questions and matters within their respective limits, established by compromise, without which the Union could never have been formed, was carried into the articles of confederation, and embodied in the fifth article thereof. (See ante. p. 22.)

2d. The cession of the public lands and territories to the United States.

The second difficulty which arose between the states was in relation to the public lands and western territories. Some of the states claimed jurisdiction over large districts of unsettled country in the west, and their claims were conflicting; while some of the states claimed no western lands. The latter insisted that the unsettled districts of the west, and the title to the land therein, should be ceded by the states to congress, to form a common fund, to aid, first, in prosecuting the war, and secondly, in paying the national debt contracted during the war. Maryland refused to ratify or confirm the articles of confederation on that account. After several years' discussion and controversy in congress and in the state legislatures upon that subject, the state of New York finally ceded to congress, in 1781, all her public lands and claims of jurisdiction and territory west of her present limits; and thereupon the state of Maryland acceded to and ratified the articles of confederation as heretofore stated. (See ante. p. 120.) The states of Virginia, Massachusetts, Connecticut, and South Carolina, severally made similar cessions some years afterwards. North Carolina made a cession in 1790, and Georgia, in 1802. In those cessions, each state retained a certain portion of her claims. Virginia retained Kentucky and a large reserve of lands in Ohio; New York retained the present western part of the state, then a wilderness; Massachusetts retained the present state of Maine, and Connecticut reserved and had ceded to her, the soil, but not the jurisdiction, to a large district of country in north-eastern Ohio—comprising nearly an eighth part of the state.

All those concessions and grants to congress, were made after years of dissension and controversy upon the subject. They were made as a matter of expediency and compromise, to conciliate the states that had no public lands, and to produce harmony and

union between the states. They may be very properly regarded *as the second great compromise upon which the American Union was based;* and without which the constitution and present form of government never could have been established.

3d. The ordinance of congress of July 13th, 1787.

The next great difficulty which arose between the states was in relation to the government of the newly ceded territories. The fifth article of the ordinance, reported by Mr. Jefferson, in 1784, (see ante. p. 122), was objected to by most of the southern states, including a majority of the delegates from Virginia, and was struck out. As it passed, it was not satisfactory to the northern states. Three years afterwards, the ordinance of 1787, was finally agreed upon, applying and limiting the prohibition of slavery to the territory north-west of the Ohio river, and not to any territory south of that river, which might be thereafter acquired from North Carolina, Georgia, or any foreign country. With that limitation of the prohibition, the ordinance of 1787 was assented to by Virginia, and by a majority of the states, and became a law; and Virginia revised, ratified, and confirmed it, in Sept., 1788. [See ante. p. 133.]

The adoption of the ordinance of 1787, prohibiting slavery north of the Ohio river, leaving the territories that might be thereafter acquired south of that river, to be settled by slaveholders with their slaves, and to become slave states, may be regarded as *the third great compromise of congress*, and the first one upon the question of slavery. The acceptance, by congress of the cessions of territory by North Carolina and Georgia, upon the conditions in relation to slavery, heretofore stated, was, in effect, carrying out the compromise principles acted upon in the adoption of the ordinance of 1787.

4th. The adjustment of political power and the basis of power in the several States, and in the federal government.

When the convention which formed the constitution of the United States, met in 1787, the first difficulty which presented itself was the question of the relative power in the government, first of the large and populous and the small states, and, secondly, of the states having large numbers of slaves, and those having but

few—there being slavery, at that time, in all the states except Massachusetts. The small states claimed that they were independent sovereignties, except so far as they had granted a portion of their sovereign powers to the congress of the confederation. They claimed equal rights and powers with the large states, and as they then enjoyed, under the articles of confederation, the same powers as the large states, they insisted on a continuation of the same equality of power, in the new government about to be established. This seemed to the large states greatly unjust and unequal, to give the small populations of Delaware and Rhode Island, for all future time, the same representation and power as were given to ten, or twenty, or thirty times as many inhabitants in New York, Pennsylvania, Virginia and Massachusetts. It was insisted that equality of power was necessary to enable the small states to protect their rights from the encroachments of the large ones, and from the oppressions of majorities in congress by the combination and concert of action of the members from a few large states, if the states should be represented according to population. The delegates from the southern states claimed that their slaves were persons as well as property, and that as persons, they should be represented the same as free inhabitants. On the contrary, the delegates from Massachusetts, and the northern states, insisted that slaves being held and controlled as property, and having no personal rights, should not be represented in congress at all, and that the people of the southern states should not have any additional representation in congress on account of their slave property.

Here we see there were many clashing interests and jealousies between the people of the several states, as to their relative powers in the new government about to be established—which constitute the corner-stones and a portion of the foundation of the national government—all of which must be agreed upon, before the first step could be taken towards settling the form of the government, or arranging the details of the constitution. The Union was intended to be perpetual, and the government was designed to be for all future time. How it would operate could not be foreseen; the future was uncertain; each party was apprehensive of difficulties and dangers in the future, and very tenacious of what they deemed their rights and just powers in the government. Hence the dif-

ficulty of reconciling so many conflicting interests, opinions, rivalships, and jealousies, and agreeing upon a proper basis for the new government. Hence there was a necessity of compromise, of conciliation, of yielding theoretical rights and powers, and extreme claims on all sides, to enable the several states and parties to harmonize on medium grounds, avoiding all extremes.

The people of all the states agreed on a few great principles; that the Union should continue to be, as it had been, a federal union, and not a consolidated union; that the government should be a federal government, and not a consolidated government; that the states should retain their sovereignty and independence in all local and interior matters, and should grant the federal government power over external, foreign, international, and inter-state matters, rights, and commerce; that the government of each state derives its powers directly from the people, and should continue to be supreme over persons and property, for all the purposes of local and municipal legislation and administration; that the state governments within their spheres of action, should remain entirely independent of the federal government, and not subject to its control or supervision; and that the principal of non-intervention should prevail in future, as it had previously, as between the several states, and between the federal government and the several state governments, so long as the latter should continue to act within their proper and legitimate spheres, as local and municipal governments. There were no differences of opinion, no compromises were necessary, on such questions.

To protect the rights of the small states, the national legislature was divided into two branches; a senate and house of representatives; each state was allowed the same number of senators, so as to give the small states, by acting in concert in the senate, a check, and a sort of veto upon any legislative measures carried through the house of representatives by the members from the large states, which might be prejudicial to the rights and interests of the small ones. At the present time, the people of Delaware have more than thirty times as large a representation in the United States senate as an equal number of inhabitants of the state of New York. The former also cast about three times as many votes for president and vice-president of the United States, as any equal

number of inhabitants in the latter—each state having as many presidential electors, and casting as many votes, as it has members in both houses of the national legislature.

So the representation in the house of representatives was based on a compromise; and instead of allowing the southern states a full representation for slaves, or on the other hand allowing them no representation at all, *a compromise was effected, and a medium between the two extremes was adopted*, and they were allowed a representation for three-fifths of their slaves; so that at the present time, the slave states are entitled to the same number of members in the house of representatives, for nearly four millions of slaves, as the state of Ohio is, for 2,339,502 free inhabitants.

Any one can see that these adjustments of power between the large and the small states, and between the north and south, which constitutes the foundation of the federal union, and the corner-stones of the constitution of the United States, are not based upon inflexible political principles, but on grounds of compromise, and compromise only. They may be regarded as the FOURTH GREAT COMPROMISE OF THE AMERICAN PEOPLE, AND THE SECOND UPON THE QUESTION OF SLAVERY.

5th. The foreign slave trade, and the power to regulate it.

The next great difficulty and contest which arose in the constitutional convention, was in relation to the importation of African slaves. For more than a century prior to the revolution, slaves had been imported into and sold as merchandize, and held in bondage during life, in all the colonies. They were regarded in all the colonies as chattel property; as persons without personal rights, except the right to be protected by law from extreme cruelty. The importation of slaves into several of the states, was continued under state laws, after the close of the revolutionary war. The congress of the confederation having no power over commerce, either foreign or domestic, the whole subject of commerce and the importation of slaves was regulated by state laws. The committee of the constitutional convention, to whom the general subject of the powers of congress was referred, reported the following provisions, viz:

"No tax or duty shall be laid on the migration, or importation of such

persons as the several states shall think proper to admit; nor shall such migration or importation be prohibited."

The above clause merely proposed to leave in full force the then existing powers of the several states, to continue the importation of slaves as they had done. If it had been adopted, it would have conferred on the states no new powers; but would have perpetuated the slave-trade forever. The delegates from Maryland, Virginia, and all the northern states, were opposed to the slave-trade, and opposed to the above provision to authorize its continuance, and Mr. L. Martin, of Maryland, moved to strike it out. The delegates from South Carolina, North Carolina, and Georgia opposed the motion, and thereupon a warm and violent debate ensued upon the question. Several of the delegates declared that if the slave trade was prohibited, those three extreme southern states would not come into the Union; and there is no reason to doubt that such would have been the result, if no compromise had been affected, and the slave trade had been immediately prohibited. The hesitation of North Carolina to ratify the constitution and to come into the new union, even with the compromise, furnishes sufficient evidence of the feelings of the people, to show that without the adjustment of the question, as finally agreed upon, that that state, together with South Carolina and Georgia, would have refused to ratify the constitution, and would have formed another and distinct confederacy.

After a warm and long debate, the provision was referred back to the committee for revision, in the hope of an agreement of the differences of opinion by compromise. The committee afterwards reported the following provision, viz:

"The migration or importation of such persons as the several states, now existing, shall think proper to admit, shall not be prohibited by the legislature prior to the year 1800; but a tax or duty may be imposed on such migration or importation, at a rate not exceeding the average of duties laid on imports."

On the report being taken up, Gen. Pinkney, of South Carolina, moved to strike out the figures "1800," and insert 1808 in their place, so as to sanction the continuance of the foreign slave-trade until the year 1808, and authorize congress to prohibit it thereafter. Mr. Gorham, of Massachusetts, seconded the motion, and after a warm debate it finally prevailed; the following states voting for it,

viz: New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina and Georgia, seven in all; New Jersey, Pennsylvania, Delaware, and Virginia voted against it; New York was divided, and her vote lost, and Rhode Island was not represented in the convention. With that amendment and some other changes in phraseology, the provision was adopted as it now stands in the 9th section of the first article of the constitution. [See ante. p. 48.]

By the adjustment of the question, the convention had the wisdom to adopt the mean between two extremes—avoiding both. It was impossible to harmonize the north and the south, and to unite all the states in one strong, national government, under such an organic law as the present constitution of the United States, without some such compromise of the question in reletion to the importation of slaves. As North and South Carolina and Georgia desired to retain, perpetually, the assumed right and power to import slaves, and the other ten states desired to prohibit their importation immediately and forever, and as the former three states were substantially independent, and could not be compelled to ratify the constitution, nor to come into the new Union without their consent, it was impossible to form a union of all the states under the constitution, without a satisfactory arrangement of that most difficult question. The adoption of that provision by the convention, may, therefore, be very properly regarded as the *fifth great compromise of the American people*, without which the union of all the states, under the constitution, could never have been formed.

6th. The surrender of fugitive slaves.

When the clause of the constitution regarding fugitives was under consideration in the convention, Mr. Butler, and Mr. Charles Pinckney, of South Carolina, "moved to require *fugitive slaves and servants* to be delivered up like criminals." The form of expression was objected to, but the power itself, though not inserted in the draft of the constitution made and reported by the committee on details, was generally assented to by northern as well as southern delegates, and the clause, on consultation, was finally modified and adopted, in the form it appears in section 2, of article IV., of the constitution. [See ante. p. 54.]

The people of the southern states had a very deep interest in the adoption of that provision of the constitution; while those of the northern states had very little, and the feelings of a majority of the people of Massachusetts, New Hampshire, and Connecticut, were repugnant to it, so far as it applied to negro slaves. But as it was made to apply to indented white servants and apprentices as well as to slaves, the propriety of the provision was so obvious, that it was assented to by all, even by the delegates from Massachusetts, and was finally adopted without a division.

Though it was not opposed by the delegates from the northern states, and not adopted after a violent contest as a compromise measure, as the other provisions were, yet it was adopted to render slave property more secure, and to conciliate the south, and to render the constitution more acceptable to that portion of the Union; and there is no reason to doubt that it contributed largely to commend the constitution to the favorable consideration of the people of North Carolina, South Carolina, and Georgia, and to promote its adoption by those states. It may, therefore, be regarded as the sixth compromise of the American people—the propriety of which was more generally assented to than any of the others.

7th. The Missouri Compromise.

The adoption of the provision to prohibit slavery in the remaining territories, north and west of the state of Missouri, embodied in the act to admit that state into the Union, in 1820, generally known as the Missouri compromise, was the *seventh great compromise of the American people, and the fourth upon the subject of slavery.* It saved the Union from dissolution at that time. [See ante. pages 145 and 146.]

8th. The compromise tariff of 1833.

The sophism of free trade sunk deep into the minds of the politicians and people of the state of South Carolina, and rendered the laws of the United States for raising a revenue by levying duties on goods and merchandize imported into the country, very odious, among all classes in that state. About the year 1830, the subtle and fruitful intellect of John C. Calhoun, then vice president of the United States, conceived the sophistical doctrines of

nullification; which he wove into an ingenious system, for the interpretation of the constitution, and the nullification of the tariff laws of the United States. Those pernicious political heresies soon spread through the state, and took deep root in the public mind. Under the influence of his subtle sophistry, a state convention was assembled in 1832, which passed an ordinance of nullification—declaring certain tariff laws of the United States null and void, within the limits of South Carolina, and directing the executive and judicial officers of the state to resist their execution.

Gen. Jackson, being then president of the United States, issued his proclamation to the people of South Carolina—denouncing the nullification ordinance as an inceptive step to treason and disunion, and warning them not to attempt to carry it into effect. The governor of the state replied to the president's proclamation, and the legislature passed laws to carry the ordinance into effect, to set the government of the United States at defiance, and to resist by force the execution of the laws of congress and the collection of the national revenues. The country seemed to be on the brink of civil war, between the state of South Carolina alone, on one side, and the government of the United States on the other. In that posture of affairs, Henry Clay, of Kentucky, introduced into the United States senate, a compromise bill, to conciliate the people of South Carolina, by a gradual and large prospective reduction of the duties on imports, from time to time, until the year 1840, when all duties above twenty per cent. were reduced to that rate. The bill passed and became a law.

The measure had the desired effect, to allay the threatening storm in South Carolina; but its influence, in many other respects, was very pernicious. The reduction of duties invited immense importations of foreign goods in 1835, 1836, and the early part of 1837, and again in 1839, beyond the ability of the country to pay for, and produced terrible financial revulsions in 1837 and 1839, paralized the industry of the country, and reduced to bankruptcy many thousands of its merchants, bankers, manufacturers, and business men.

That compromise had another tendency, equally pernicious. It was passed under the influence of a series of threats and most insolent acts of the people, the convention, and the legislature of South Carolina, and had the appearance of cowing to them under

a sense of fear that the nullifiers might have sufficient power and influence to dissolve the Union, if their insolent demands were not complied with. It therefore tended to encourage the nullifiers, and to spread their pernicious heresies in other southern states. The doctrines of nullification contained the germs and the seeds of thought, which developed, in 1860, the doctrines and practical system of secession, revolution, and civil war.

As Gen. Jackson was an energetic southern man, very popular in all the southern states except South Carolina, and was devoted to the federal union and constitution, he could have crushed out, without diffieulty, any rebellion the nullifiers of the comparatively weak state of South Carolina could have raised. There was then no reason to fear that any other southern state would join the nullifiers; so that any rebellion they could have excited, would have been of trifling magnitude, compared with the great rebellion of 1861.

It has proved unfortunate for the country that the compromise was interposed, the tendency of which was only to diffuse and spread the heretical poison, to postpone the evil, and to increase its magnitude more than ten fold. If the nullifiers had not been bought off by the compromise, and had gone on as they would have done, and consummated their nullification by overt acts of treason and open rebellion, in resisting the execution of the laws of the United States, and five or six of their leaders had been seized, tried, convicted, and executed for treason, every traitor so punished would have saved the lives of an hundred thousand persons, in the subsequent history of the United States.

Being found impractical in its operations—that is, not capable of furnishing sufficient revenue for the support of the government, the principles on which it was based, were finally abandoned by both political parties; first, by the whigs, in the formation of the tariff of 1842, and, lastly, by the democrats, in the reconstruction of the tariff system in 1846.

9*th*. *The compromise measures of* 1850.

By the war with Mexico, and the treaty of peace at its conclusion, in 1847, the United States acquired California, New Mexico, Utah, and all the intermediate territory; but by reason of the radical differences of opinion between the north and the south upon the ques-

tion of slavery, it was impossible for congress to agree upon and pass any bill or bills to organise territorial governments for those vast regions. A large majority in nearly all the free states insisted that slavery should be excluded from all that country, while the people of the slave states claimed with still greater unanimity, that they had a constitutional and just right to take their slaves into all the territories of the United States; that congress had no legitimate power to exclude slavery from the territories, and could not do so without a usurpation of power. Congressional legislation upon the subject was at a dead lock, and the result was, that New Mexico and Utah were without legitimate territorial governments for more than three years, and California for more than two years. California eventually organized a provisional government, adopted a constitution, and was finally admitted by congress as a state, September 9th, 1850.

The thirtieth congress, which met for the first time, December 1847, and terminated March 3d, 1849, could not, and did not, agree upon bills to organize the newly acquired territories. The thirty-first congress met on the first day of December, 1849, but neither party having a majority of the members of the house of representatives, the struggle for the organization of the house was long and violent, and nearly two months elapsed before a speaker was elected, and the house organized. The feeling in congress, in the city of Washington, and throughout the country, was intense, and the debates were warm and often violent, from the time of the organization of the house, until the close of the session, in September, 1850. Threats of a dissolution of the Union were often made in congress, in the newspapers, and in state legislatures, and the passions of the people, both north and south, were so excited and violent, that the danger of dissolution was very great and imminent.

During that distracted condition of our country, Mr. Clay, of Kentucky, with the wisdom of a great and experienced statesman, and the heart of a true patriot, rising above all partizan and sectional feelings and prejudices, introduced into the senate of the United States, a series of resolutions or propositions, as the basis of a compromise, to adjust and settle the difficulties under which the country was laboring, and which threatened its ruin. They

consisted, first, of a proposition to organize temporary governments for the territories of New Mexico and Utah, giving to each territory a legislature to be elected by the people thereof, declaring that "The legislative powers of the territrry (in each case), should extend to all rightful subjects of legislation, consistent with the constitution of the United States, and the provisions of the organic act," and providing,

"That when admitted as a state, the said territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."

Second, to abolish and prohibit, in future, the domestic slave trade in the District of Columbia; and

Thirdly, a new and more efficient act for the rendition of fugitive slaves.

Daniel Webster, the great and distinguished compeer of Mr. Clay, warmly supported the compromise measures, and after they had been debated with great zeal, and often with intense feeling, during several months, and bills were introduced to give them form, they were finally passed and approved by president Fillmore, in September, 1850.

The vexed question of slavery in those territories, the slave trade in the District of Columbia, and the fugitive slave question, were thus settled by a series of concurrent acts, which may be regarded as *the ninth great compromise of the American people.*

The only great defect in that compromise, was in the fugitive slave law—in not providing a proper and efficient remedy to prevent and punish the practice which had become quite common, of kidnaping free persons of color, and selling them as slaves. So far as the territories of New Mexico and Utah were concerned, the acts to organise governments therein conferred on the territorial legislatures power to establish and regulate, or to prohibit slavery therein; and in that respect they were the best and most perfect which the divided and distracted state of public opinion, the exigences of the country, and the divisions of opinion in congress, would admit of. They conferred upon the people of those territories, power to legislate for themselves upon the subject of slavery, and established the doctrine of non-intervention by congress therein, upon that subject.

With the exception of the abolitionists, and a portion of the whigs of New England, New York, Michigan, and some parts of other northern states, all the people of the United States seemed to acquiesce in that compromise at the time, and for years afterwards; and it gave peace to the country once more.

It was the strong opposition on the part of a portion of the northern whigs to that compromise, which defeated the election of Gen. Scott to the presidency in 1852, divided, distracted, and finally destroyed the whig party.

That compromise worked well in practice, and only twenty-four slaves were introduced into New Mexico, and twenty-six into Utah, under territorial laws, during the following ten years.

It is impossible for any free government, or any government but an absolute monarchy, to exist over so large an extent of country as the United States—embracing so many and such vast differences of climate, productions, and interests, without frequent compromises. It is impracticable to conduct the government of such a vast country, upon inflexible political principles, entirely consistent, in all respects, with each other. Hence national expediency —or in other words, the adaptation of measures to the condition and circumstances of the country and its institutions, and to the industry, habits, and prejudices of the people of all sections, as far as is practicable, should be the cardinal rule of political action. And hence the absolute necessity of occasional compromises, and of a general spirit of conciliation, in order to harmonize conflicting opinions and interests.

The tendency of public opinion in each section of the country, is to take a full and enlarged, and often an exaggerated view of their own rights and interests, and to see but dimly the rights and interests of other sections at a distance from them, with which they have no personal acquaintance. Hence the discordant and clashing opinions, and the necessity of compromise to reconcile them—otherwise legislation would often come to a dead lock, appropriations to carry on the government would be impossible, and the nation would be divided into factions, and soon destroyed, as Poland was, and as Mexico probably will be.

I have recounted only the principal compromises of the American people. Almost every session of congress has had its minor

compromises. In fact, every appropriation bill passed by congress, involves more or less the principles of compromise. Such is the case more particularly with appropriations for river and harbor improvements; for the great national road from Cumberland, on the Potomac, across Maryland, Pennsylvania, the northern neck of Virginia, Ohio, Indiana, and Illinois, to the Mississippi river; and of public lands for railroads, canals, the improvements of rivers, for agricultural and other colleges, and for common schools.

The repeal of the Missouri compromise in 1854, was the first great departure of congress from the principles of compromise. It was also a violation of good faith to the people of the free states. It caused an immediate and violent struggle between the friends of freedom and of slavery, and a civil war in Kansas; the former striving to people Kansas with freemen, and to make it a free state, and the latter to make it a slave state. From that time to the present, (February, 1863), the principles of compromise have constantly been departed from, and the result has been the present gigantic civil war; and by the perversion of the war from its legitimate purposes, (to put down the rebellion, and to sustain the supremacy of the constitution and laws of the United States)—and by means of the emancipation proclamation of January 1st, and some other measures, the war has been converted into a crusade against slavery in the states, regardless of the Union, and of the success of the government in the prosecution of the war. The departures from the principles of compromise, together with the war, have made the breach between the north and the south as wide as is possible, and intensified the hatred of a majority of the people of the two sections towards each other, to a very high degree; and there is great reason to fear, that the Union will be sacrificed upon the altar of selfishness, fanaticism, prejudice, and selfish ambition.

10*th.* *International Compromises.*

In nearly all treaties between nations for the settlement of questions of boundary, navigation, or commerce, each party makes more or less concessions for the purpose of promoting peace and harmony between them; the concessions of one party being regarded as equivalents for those of the other. The principles of compromise are involved in all such treaties.

The treaty between the United States and Great Britain, for the settlement, in 1842, of the north-eastern boundary, is a memorable example of an international compromise for the settlement of a very complicated and perplexing question of boundary, which had been in dispute about half a century, and threatened to involve the two nations in war, for a small portion of territory, nearly valueless. By that treaty, the United States surrendered and conceded to Great Britain the north-eastern part of the state of Maine, and obtained as an equivalent, Rouses' Point, and the fortifications thereon; which command the foot of Lake Champlain, and on running the line accurately, according to the treaty of 1783, were found to lie within the limits of the British province of Canada.

The north-western boundary line of the United States was also settled by a compromise treaty. Great Britain claimed the whole Pacific coast, from the Columbia river, north to the Russian possessions, north of the line of 54 degrees and 40 minutes; and the British fur company had settlements on the Columbia river. On the contrary, the United States claimed the whole country from the Columbia river to the Russian possessions, and many of our then leading politicians, including Gen. Cass, clamorously urged the administration to disregard the British claims, and insist on the line of 54—40, or fight. They seemed very anxious to involve the country again in war with Great Britain. But wiser and better counsels eventually prevailed, and president Polk settled the controversy by a compromise treaty; whereby the line of 49 degrees—which obtains east of the Rocky mountains, was extended west to the straits which separate Vancouver's Island from the main land, and the whole of that noble island was conceded to Great Britain. That rational compromise prevented a useless, expensive, and bloody war with the mother country.

Those that repudiate all compromises, and adhere rigidly in matters of government to what they deem principle, are generally more or less deluded with selfishness or bigotry, and instead of adhering to true public policy, and sound political principles, they cling with obstinacy to some worthless sectarian, or partizan dogma, or to some local, or otherwise selfish interest, of very little consequence when compared with the peace and harmony of a nation.

CHAPTER III.

SYSTEM AND CHARACTER OF THE AMERICAN GOVERNMENTS AND LAWS. DIVISION OF POWER, AND LINES OF DISTINCTION BETWEEN THE POWERS OF THE NATIONAL AND STATE GOVERNMENTS.

SEC. 1. SOURCE OF POWER AND AUTHORITY.

The Christian world recognize a Supreme Being as the creator of the Universe, and the author of all; from whom all physical and intellectual power, all parental, moral, and political authority emanated. The Deity established the physical laws of the Universe, and the mode or system of its action. He also created man with a certain organization, nature and faculties, and fitted him for certain modes of existence upon the earth, to live upon its fruits and products, by means of industry. The laws established for the government of the Universe, with all the creatures therein, including man, are called laws of nature; which include the moral, intellectual and physical laws, for the government of man, the organic laws for the government of all animal and vegetable life, and the material laws for the government of the Universe, and all unorganized matter.

Man is endowed by his creator with intellect, judgment, perceptive and reasoning faculties, understanding and memory—to enable him to acquire, retain, and communicate knowledge—to provide for his own wants, to guide his own conduct, to organize society and governments, and to establish laws.

In this republican country, we maintain that all political power emanates from the people; but this is true only in a qualified sense. The people have neither powers nor rights, except what they have

derived from the Creator, who has endowed adult persons, of ordinary intellect, with the powers and rights of governing themselves, in accordance with the laws of nature; he has conferred on children, idiots, and lunatics, no such powers and rights, for the obvious reason that they are totally incapable of exercising them properly.

Political rights and powers are derived from the same source as individual and personal rights, and the rights of self-government. All come from the Great Creator; and yet the community, state, or nation, derive their political powers directly from and through the people; for we believe that God has appointed no political vicegerents on this earth.

Political governments are founded upon the nature and condition of man, and the necessity of organization, of government, of a system of laws, and of the administration of justice, to preserve order, and protect the rights of individuals. They are based upon absolute necessity and the laws of nature, and are limited in their operations by the demands of necessity, and the laws on which they are based; which must be ascertained by the reason of man. Governments must be founded by man; and their forms, principles, powers, modes of action, and the persons to administer them, must all be determined by human reason; and from the necessity of the case, they must be determined either by the majority, or by the minority of the people to be governed by them. According to our republican ideas, in this country, they should be determined by a majority of the adult males of the community, state or nation, of sound mind. Hence we very properly say, that all political power is derived directly from the people, but indirectly and originally from God; and that the political powers of man, of majorities, and of governments, are not unlimited, but clearly limited by the laws of nature, established by God in the nature, constitution, and condition of man, and of the universe.

SEC. 2. SUPREME, SOVEREIGN, SUBORDINATE, AND CO-ORDINATE POWERS.

The sovereignty of each state of our Union is divided between the national and state governments. Sovereignty is supreme power to legislate for the people, and the right to exercise domin-

ion over them, and over the country they inhabit; in all cases within the legitimate sphere of human government. Supremacy and sovereignty are convertible terms, implying jurisdiction, dominion, and power, without appeal, over persons and property, land and water, within a certain district of country.

Sovereignty rests in and emanates from the people, the whole people, and the influence of the whole people should be felt in its exercise. Though from the necessity of the case, the voice of the majority must govern in elections and in official action, yet the opinions, rights and interests of the minority, should always be considered, and properly regarded, in legislative and official action. Sovereignty and all the powers of government are delegated by the people to the government as a corporation, or representative of the state or nation, and to the officers thereof as trustees—to be exercised for the protection and good of the whole.

In most countries, the powers of government are divided into two classes, supreme and subordinate; but in our complicated system of government, with a divided and double sovereignty in each state, the political powers of the country are divided into three classes—supreme, subordinate, and co-ordinate.

The British parliament is supreme, and exercises supreme and sovereign legislative powers, not only over Great Britain and Ireland, but also over all the British provinces. On the contrary, the parliament of Canada and the legislative bodies of all the British provinces, colonies, and possessions in America and Australia, exercise only such subordinate legislative powers as have been delegated to them by the British parliament; which may alter, modify or repeal at pleasure, the powers delegated, and may adopt systems of jurisprudence and codes of laws for the provinces, and legislate for them in all cases whatsoever. This is the theory of the powers of the imperial parliament of Great Britain—the powers exercised by the subordinate provincial and colonial parliaments being delegated to them by the imperial parliament, as a matter of propriety and expediency. The powers exercised by the cities and villages of Great Britain are subordinate powers, specially delegated to them by the British parliament, or, originating in usage and custom, have been tacitly sanctioned by parliament, and may be changed at pleasure by the imperial parliament. The powers

exercised by the cities and villages of Canada, and other British provinces were delegated to them by the provincial parliaments, and are subordinate to the provincial parliaments, and also to the parliament of Great Britain.

Ours is the most complicated government in the world, with two co-ordinate governments, each supreme and sovereign within its proper sphere, operating upon the same people, and the same state or country. Hence the necessity of ascertaining the exact boundaries of power of each, to avoid conflict, and to enable both to move on harmoniously together.

The governments of cities, villages, counties, and school districts, in the several states, are organized under charters granted, and laws enacted, by the several state legislatures. They are mere subordinate corporative governments, deriving all their powers from the state legislatures which created them, and have full power to alter, amend, or repeal them at pleasure.

Such is the condition, also, of the governments of the cities of Washington and Georgetown, in the District of Columbia. The territorial governments of the United States are of the same character. They are mere corporations or subordinate governments, created by congress for the government of the territories. They are subordinate to, and dependent upon the national government which created them, and has as full power to legislate for them, as the imperial parliament of Great Britain has to legislate for any of the British Provinces. Neither the territories, nor the cities, villages, counties, or school districts of the several states have any inherent powers to govern themselves, which are recognized by our theory of government. On the contrary, their powers are all derivative, dependent, and subordinate to the supreme government from which they were derived; in the one case to the national government, and in the other case to the several state governments.

The state governments are in no proper sense subordinate to the the national government; but original governments, organized by the people long prior to the national government, with inherent and independent powers, derived directly from the people—which were never possessed by the government of the Union. They are supreme and sovereign within their proper sphere of action, except so far as concurrent powers are conferred on the na-

tional government. They are also independent of the national government, except so far as they are inseparably connected with it, by the constitution of the United States.

Supremacy over implies power to govern, to command and to coerce—but the national government has no power to govern, to command or to coerce, or interfere with the states, as corporations or governments, so long as they remain within their proper spheres: and they cannot get out of their spheres, without a usurpation of the officers exercising the powers of the state governments. In that case, the usurpers and insurgents may be treated as rebels and belligerents, and as such, war may be waged against them, to reduce them to submission to the constitution and laws of the United States.

The government and laws of the United States, and of the several states, operate upon the same territory, upon the same people, and upon the same property, but for different purposes and objects; the latter for internal, municipal, and local purposes and objects, and the former for national, external or foreign, and inter-state purposes. And yet each has its sphere of action, more distinctly marked and clearly defined than the lines of power between the legislative and executive branches, or between the legislative and judicial branches of either government, have ever been defined. Each of the two governments should move on in its own proper order or sphere, as the several planets move around the sun, and without conflicting with each other. Their respective powers and jurisdiction may properly be termed co-ordinate—but not generally concurrent, in the sense we say courts of justice have concurrent jurisdiction. The governments are also co-ordinate, and in a few respects concurrent.

SEC. 3. AMERICAN GOVERNMENTS ARE CO-ORDINATE SOVEREIGNTIES.

Our government is a federal representative republic, consisting of two co-ordinate governments, having on some subjects concurrent jurisdiction, in which the federal government has priority, superiority, and complete supremacy over the subject matter, and each having an exclusive jurisdiction, in which it is supreme and sovereign.

The federal and state governments have concurrent jurisdiction and power, with federal priority, precedence, and supremacy, over the subject, matter, and persons, (but not, strictly speaking, supremacy or sovereignty over the state governments and laws), in matters of direct and internal taxation, the militia, and in the administration of justice in civil cases, between citizens of different states, between a citizen and an alien, and in cases of questions arising under the constitution and laws of the United States. In such cases, the state courts have jurisdiction, subject to the right of the defendant to remove the cause to the federal court of the proper district. The federal and state governments may each levy a direct tax on the same property, at the same time; and in such case, the federal government has the prior and superior right to collect its tax out of the property first, and in preference to the state or local government, and may seize and sell the property for that purpose. That, however, does not imply supremacy or sovereignty of the federal government directly over the state governments and laws, but a superior and prior right, and supreme power over the subject matter, the property itself, when a tax has been levied upon it by the federal government. In all municipal and local matters in which the states have exclusive jurisdiction, their supremacy and sovereignty is as complete, absolute, and unlimited, as that of the national government is over the subjects specially and exclusively granted to it.

The state governments have exclusive jurisdiction and dominion over the cities, villages, counties, towns, and townships situated within their respective limits, and over the corporate powers exercised by them, and over all the persons and property therein, for municipal and police purposes, and all purposes of local trade and government. The federal government has similar powers over the district of Columbia and the territories of the United States, united with supreme power for national purposes also—making its power over the District of Columbia, and over the territories absolutely supreme, sovereign, and undivided, for all purposes, local and municipal, as well as national and international. The federal government has power over the persons and property within a state for certain prescribed national, international, and inter-state purposes, and for such purposes only; but no power

whatever over the state governments, as governments or corporations, and none over the cities, villages, counties, and townships of a state, or the corporate powers exercised by them.

The constitution of the United States forms as much a part of the constitution of each state, as if it were embodied in it. The people and the territory of each state, and the property therein, are subject to two co-ordinate governments, each supreme and sovereign within its proper sphere; but neither having any supremacy or power over the other. Neither of those governments is independent; each being the complement of the other, is dependent upon it, and defective without it. The sovereignty of each state is thus divided between two mutually dependent and co-ordinate governments, which should move on in harmony together, as the legislative and executive branches of the same government do.

The national government being the common government of all the states, in which they are all represented, established to regulate their intercourse with each other and with foreign nations, to protect their national and common rights and interests, and to promote the general welfare of the whole, is superior in importance, power, and dignity, to the state governments. This is clearly shown by the limitation of the powers of the state governments, contained in the federal constitution, as well as in the grants of power, and the nature of the powers granted to the national government. It is also declared in the constitution itself, that the constitution, laws, and treaties made in accordance with it, shall be the supreme law of the land; and when they have concurrent application with the state laws to the same persons and property, the former being supreme, take precedence of, and are superior to the state laws, which must, in such case, be secondary, inferior, and limited by such supremacy.

Sec. 4. The state governments have none of the attributes of national sovereignty.

All the exterior and foreign relations of a state or country pertain to national sovereignty—while nearly all the interior relations of the several states pertain to municipal sovereignty. The state governments retain and exercise nearly all the attributes of municipal

sovereignty, but none of the attributes of national sovereignty. The principal attributes of national sovereignty are as follows:

1st. Power to contract alliances, and to make treaties of commerce and navigation, and for other purposes, with foreign nations.

2d. Power to declare and wage aggressive, as well as defensive war; to raise and support armies; to build and maintain fleets and navies; and to keep troops and ships of war in time of peace, as well as during war.

3d. Power to regulate foreign commerce and commerce between states, and all matters of admiralty and maratime jurisdiction.

4th. Power to acquire islands, colonies, and other foreign possessions, by treaty or conquest, and to hold and govern them as dependencies, colonies, or territories.

5th. Power to establish post offices, and post roads, and to provide for carrying mails between the several states, and between the states and foreign countries.

6th. Supreme power of taxation for national purposes.

7th. Supreme power to call out the militia for national purposes —to suppress insurrections, and repel invasions.

8th. Power to coin money and regulate the value thereof.

All these powers are attributes of national sovereignty, granted to the government of the United States by the constitution, either in express words, or by necessary implication. The several states possess none of those attributes of national sovereignty; the federal constitution not only grants them to the national government, but to make the grants the more conspicuous, it in express terms prohibits the states from exercising either of the 1st, 2d, or 8th, and by necessary implication, also prohibits the states from exercising either of the other powers enumerated.

The supremacy and sovereignty granted to the government of the United States is complete and perfect upon all external and national subjects—while the supremacy and sovereignty retained by the several states is complete over all internal matters, with few exceptions.

Sec. 5. Double allegiance of American citizens.

The citizens of every country owe allegiance to the government which protects them. No government can be long main-

tained without the faithful allegiance of a large majority of its citizens. Hence protection and allegiance are reciprocal terms; each requires the other, and each should be regarded as a compensation for the other. The strength of a government depends as much on the devotion and faithful allegiance, as on the numbers of its citizens. The more generally faithful the citizens are to their allegiance, and the more zealous in the support of the government, the stronger it will be, and the more perfect their protection.

Allegiance is due to the sovereignty, to the sovereign power, and to the government which is the representative of that sovereign power. As we have in this country a divided sovereignty, and two co-ordinate governments representing the sovereign power, the allegiance of each citizen is divided accordingly between them—between the national government, and the government of the state in which he resides. His allegiance accords with the sovereignty and supremacy of the two governments. National sovereignty being vested in the federal government, he owes to it paramount allegiance upon all national subjects, and upon all subjects over which the two governments have concurrent jurisdiction. He owes to the state government full allegiance upon all domestic, municipal, and local matters and questions; and whenever the federal government usurps, or attempts to usurp any of the substantial and important powers reserved to the states, the allegiance of every citizen of the state to his state government, binds him to resist such usurpation.

In our system of government, the state governments are more essential to liberty than the national government; though less essential to security and general prosperity. The state governments protect the person and property of the citizens, regulate marriages, the domestic relations, all the transactions and business of the citizens with each other, and the manner of acquiring, holding, using, and transferring property, and making contracts. They also prescribe punishments for crimes and offences, and all matters of police; and regulate roads, bridges, schools and education, internal trade and navigation, and the general administration of justice.

Our citizens are dependent upon their respective state governments for the protection of life, liberty, property, and the enjoyment of religious privileges. They feel, see, and realize, daily, for good or for evil, the influence of their state laws and government; but were it not for the post office departmet and the mails, the mass of our people would rarely perceive or realize the operations or influence of the federal government. Its protecting influence in preserving the peace of the country, and promoting the interests and general welfare of the people, are generally very little realized.

The Grecian states, though small, preserved their liberties and independence, without any federal Union, for several centuries; but they were unable to live in peace with each other. They were greatly weakened by frequent wars, and by reason of their divisions and wars, they finally fell before the conquering arms of Philip, of Macedon, and were afterwards conquered by the Romans, and reduced to the condition of a Roman province. The state governments, without a national government, would preserve the liberties of the people for a time, much bettet than a consolidated government; but could not preserve them long.

The state governments appear to the citizen, at the first view, vastly more important than the national government. The great importance of the latter to preserve the independence of the country from the interference, the influence, the conquering arms, and the dominion of foreign powers, is not often realized by the common mind. Hence the feelings and sympathies of a vast majority of the people are for the local and state governments, and for measures and policies of a municipal and sectional character. Comparatively few men have what may be properly termed, national ideas; and hence the danger of sectionalism, in the place of true national feelings, and a proper sense of national allegiance. But however important a strong confederated national government may be, one thing seems well established by the facts of history, that individual, civil, and political liberty, republicanism, public spirit, and the purity of a representative system of government, depend mostly on the state governments; and could not long be maintained under a consolidated central government, exercising the entire sovereignty of all the states, with its immense patronage, jobs and contracts, and

the favoriteism, corruption, extravagance, and despotism, always and unavoidably attending the administration of such a government.

Such being the case, the state governments should be preserved in all their proper powers, as carefully as the national government; the lines of distinction between the state and federal governments should be clearly defined, and carefully guarded; and every citizen should bear true allegiance to each, and sustain each within its proper sphere of action.

The citizen owes an allegiance to the federal government, upon all national, international, and inter-state subjects and questions; which is not merely paramount, but absolute, unqualified, and exclusive; and hence he is bound to resist all unjust revolutionary movements of the people of a state or states, as usurpations of power—as rebellious and treasonable, on the part of the persons participating in them.

On all matters and questions over which the federal or state governments have concurrent jurisdiction, the citizen owes a primary and paramount allegiance to the federal government, and a secondary and inferior allegiance to the state government. But on all questions and matters of a local, domestic, or municipal character, over which jurisdiction has not been clearly given by the constitution of the United States to the federal government, the citizen owes, not a secondary, but a sole and exclusive allegiance to the government of the state in which he lives; and he is as much bound to resist encroachments and usurpations of the federal government upon such subjects, as he is to resist unjust revolutionary movements of a state or states.

Sec. 6. Supreme, and yet co-ordinate laws.

The federal, and also the state laws of our government, are each supreme within their respective spheres—but co-ordinate in their supremacy—neither being supreme over the other.

The second clause, of the sixth article of the constitution of the United States, declares that the constitution and the laws of the United States made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land. That clause of the constitution has misled many minds, and induced the belief that the laws of con-

gress are supreme over the state laws, and that the latter are inferior in grade and subordinate in character, to the former. That opinion is based on a misconception of our federal system of government, and regards it as in some measure a consolidated national government, in which the states are degraded to the condition of subordinate provinces, deriving all their powers from the national government. Whereas the contrary is true. The national government derives all its powers from the people of the states, acting as distinct communities previously organized, firstly as colonies, and afterwards as states. It is true, that a union, de facto, was formed in 1775, nearly six years before the original articles of confederation were adopted, and in adopting the federal constitution, the people of the several states acted not only as citizens of their respective states, but also as citizens of the confederation, having many rights and interests in common; and yet they did not act as citizens of a country consolidated under one supreme government. None of the thirteen original states ever derived any rights or powers whatever from the government of the United States, and never surrendered their sovereignty on municipal subjects to the national government. On the contrary, the government of the United States derived all its powers from the people of the several states; hence the governments and laws of the states, though limited in their operations to municipal subjects, are not in any proper sense of the word, subordinate to the laws of congress.

The constitution of the United States forms a part of the constitution or fundamental laws of each state, and the laws of the United States, so far as applicable, form part of the laws of each state—of the same, but no higher grade or supremacy, (except in cases of concurrent jurisdiction) than the proper constitution and laws of the state; and with the further exception, that the latter can be changed by the people of the state, and the former cannot be so changed.

The supremacy declared by the constitution of the United States means, that the laws and treaties made in pursuance of the constitution shall be supreme over the subjects matter, and for the objects and purposes, to attain which, the constitution gives jurisdiction to the national government. They are not supreme over

state laws, for they apply, with few exceptions, only to national objects and purposes, over which the state governments have no jurisdiction, and to which the state laws cannot be extended without violating the federal constitution. Both federal and state laws when extended and applied to subjects and purposes beyond their proper sphere and jurisdiction, involve usurpations of power, are absolutely void, and may properly be treated as nullities, and their execution may be lawfully resisted.

In theory, all usurpations of power by the federal government may be legally and properly resisted by the state governments, as well as by individuals. The difficulty is in determining the precise limits and boundaries of constitutional power. There is great danger in resisting legitimate laws, under the influence of mere delusions and errors of opinion, and of committing treason and rebellion in the honest belief and intention of simply maintaining individual or state rights. Such difficulties and dangers and their alarming consequences, should teach moderation, and a spirit of conciliation, on all sides, and by all sects and parties.

The laws of the several states upon all municipal subjects, and upon all proper subjects of legislation over which jurisdiction is not given by the constitution to the federal government, are as absolutely supreme as the laws of congress are within their constitutional sphere—except that in all cases where the two co-ordinate governments have concurrent jurisdiction, the laws of the national government take priority and precedence to those of the state governments, and must be first satisfied. That precedence is the only appearance of supremacy which certain laws of congress have over the state laws. Concurrent jurisdiction and precedence exist in matters of direct internal taxes, the militia, and the jurisdiction of the federal and state courts, in certain classes of cases. On all other subjects the laws of each state are absolutely supreme within their proper sphere.

Congress has power to define and prescribe a punishment for crimes committed against the United States, or for violating the legitimate laws of the United States; but congress has no power whatever to pass laws to try and punish persons for murder, arson, burglary, larceny, or any other crime committed against persons or individual property, within the limits of a state. The state governments

have exclusive jurisdiction over all such crimes and offences; and any assumption of jurisdiction by congress or the federal courts over such crimes and offences, would be a dangerous and alarming usurpation of power, which should be immediately resisted.

The laws of the several states, and of the United States, are therefore, properly speaking, co-ordinate laws; each having their proper order and sphere of action, in which they are supreme; but neither have any supremacy or power over the other, except the priority of the federal laws in cases of concurrent jurisdiction. Subordination and subjection to, are words which express the opposite meaning to the words sovereignty and supremacy; but the state governments are in no proper sense subordinate or subject to the federal government, and the laws of the states are in no proper sense subordinate to the laws of congress. They are co-ordinate in the same sense as congress and the president are co-ordinate powers of the national government. Each is the complement of the other. Each is incomplete without the other. The one is supreme in national, international, and inter-state affairs; and the others are supreme in municipal and local affairs. The United States have no national municipal laws, either common or statute, and no power to adopt them. The federal courts, in civil cases, administer justice and adjudicate upon individual rights, according to the municipal laws, both common and statute, of the states in which they sit, or the lex loci contractus.

SEC. 7. NATIONAL POWERS, DISTINGUISHED FROM STATE POWERS.

Every independent nation has sovereign and supreme legislative, executive, and judicial power within its own limits; and power beyond its limits, to regulate by law the navigation of the ships and vessels of its own citizens—to regulate by laws and treaties, commerce and intercourse with foreign nations, together with exports and imports—to declare and wage war—to raise and support armies—to build and maintain navies—to make treaties, contract alliances, conclude peace, to acquire foreign lands, territories, colonies, countries and provinces, and to make laws and appoint officers for the government thereof.

Under our system of government, none of the foregoing powers of national sovereignty are possessed by the states severally. The

states retain their sovereignty over interior, local, and municipal matters and questions; but have granted to the federal government full and supreme power on all national, international, and inter-state matters—including all the attributes of national sovereignty—and excluding each state from the rightful exercise of any political power or jurisdiction beyond its own geographical limits. This is evident from the prohibitions of the tenth section of the first article of the constitution, (ante. p. 49), taken in connection with the eighth section of the same article. The grants of power to the federal government to declare and wage war and to make treaties, authorize the government to do so in accordance with the usages of nations, and for such purposes and objects as war has been usually carried on, and treaties made by civilized nations; and hence those grants imply power to acquire the lands, islands, territories, countries, colonies, and provinces of other nations, by conquest or treaty—and when so acquired, to govern them as territories or dependencies of the United States, as long as congress shall see fit to do so. Their power to do so, implied in those grants of power to congress, and in the sovereignty over all national and international matters, and over all matters beyond the limits of the several states, granted by the constitution to the federal government, gives that government as full and plenary power to acquire and govern territories and colonies, as is possessed by the British government, or by any government of Europe. On the contrary, the prohibitions of the tenth section of the first article of the constitution prohibit each of the states from the exercise of any such powers

The constitution contains no limitation to the power of the federal government to acquire and govern foreign territories and countries, nor of the purposes for which they may be acquired. I therefore see no reason why the government may not acquire distant islands and countries to be held as dependences or territories, forever, or until they may be ceded away, or allowed to establish independent national governments of their own. On the contrary, *only new states* can be admitted into the Union as states; clearly meaning and implying that none of the old states and countries of the old world could be so admitted, under the present constitution of the United States.

Sec. 8. Interior and exterior powers.

All the exterior powers of government in our country belong to congress, and to the national government, and a portion of the interior powers also. What I mean by exterior powers, are those to be exercised beyond the limits of the several states; those to be exercised within the geographical limits of a state, are interior powers.

The power to regulate foreign commerce and navigation—to regulate commerce and navigation between states, and to establish post offices and post roads, and to carry the mails, are all mixed powers, to be exercised partly within the limits of a state, and partly beyond its limits; the exercise of the power, either commencing within the limits of a particular state, and terminating beyond its limits—or commencing beyond them, and terminating within them.

The power to levy and collect direct taxes, to naturalize foreigners, to regulate and provide for bankruptcies, to build lighthouses, and to improve rivers and harbors, to promote navigation, and the war powers, to raise and equip armies, to build forts, armories, arsenals, military roads, navy-yards, and vessels of war, are all mixed powers, to be exercised within the geographical limits of the several states, but for national purposes. All these powers are carved out of the interior powers of the several states, and so far constitute limitations to state powers. The federal powers in those particulars are supreme and superior, and the concurrent powers of the states on some of those subjects are inferior, and in some respects subordinate to them.

It is an old maxim of law, that the laws of states and countries have no extra territorial force. This maxim applies with full force and without qualification, to the laws of the several states of this Union; but it is subject to many qualifications when applied to the laws of the United States, and to the laws of independent nations; some of which are stated in the last section (on national powers.)

Congress has exclusive power to regulate navigation upon the ocean, beyond the limits of the states; also to regulate navigation between states, upon lakes, rivers, and bays, lying within the limits of two or more states; but no power to regulate navigation

upon a river or lake lying entirely within the limits of a state. Hence congress has no rightful power to regulate navigation upon the Oneida, Cayuga, or Seneca lake; nor on the Oswego or Mohawk rivers, in the state of New York. Navigation upon those lakes and rivers is the agent and instrument of interior, state, or local commerce only, and not of inter-state commerce; and hence it is the proper and exclusive subject of municipal, or state laws, and not of national nor inter-state laws.

Vessels owned by citizens of New York are subject to state taxation, and are subject to the laws of the state while within the limits of the state; but they become subject to the navigation laws of the United States, the moment they leave the wharf for a voyage to another state, or to a foreign country. Vessels engaged exclusively in navigation and commerce between the cities of New York and Albany, in the same state, which do not pass out of the state in their voyages, I think are properly subject to the laws of the state only, and to the exclusive jurisdiction of its courts. The true doctrine I think is stated by Judge Woodworth, in the case of the North River Steam Boat Company vs. John R. Livingston, reported in 3d Cowen's Reports, 731, on appeal from the decision of Chancellor Sanford, reported in Hopkins' Ch. Rep., 149 and 150. The majority of the court of errors, I think erred in that case, in the application to it of the principles decided by Ch. Justice Marshall, in the great case of Gibbons against Ogden. Instead of carrying out the principles of that decision, it appears to me that the court misapprehended, distorted, and in some measure perverted them, to the great injury of the local sovereignty of the state.

Judge Savage, in delivering the opinion of the majority of the court of errors, lost sight of the distinction between the coasting trade on the ocean, between two ports of the same state, and trade on a river, like the Hudson, between two ports of the same state. In the latter case, the vessel does not pass out of the waters, territory, and jurisdiction of the state; while in the former, the vessel passes beyond the limits and jurisdiction of the state, upon the ocean, the great highway of nations, where the United State laws and government have exclusive jurisdiction over American vessels.

Rivers and the American lakes are not like the ocean, the highway of nations. By act of congress, bounding the state of Michigan, the state comprises a portion of lakes Erie, St. Clair, Huron, Superior and Michigan—extending to the Canada line on the four first named lakes. By acts of congress, lake Michigan forms a portion of the states of Michigan, Wisconsin, Illinois, and Indiana; and the United States portion of lake Erie forms a part of the states of New York, Pennsylvania, Ohio, and Michigan. The ports, harbors, rivers, small bays nearly enclosed by land, and the sea coast to the distance of cannon-shot, or one marine league from the land, and the fisheries therein, properly belong to, and form a part of the several states in which they are situated; but the Atlantic states have no just claim to, nor jurisdiction over, the ocean, beyond reach of cannon-shot from the land. These distinctions Judge Savage lost sight of. The true doctrine is laid down by the Supreme Court of the United States, in the case of Allen vs. Newberry, and that of Maguire vs. Card, reported in 21st Howard's Rep., 244 to 251. The court there held that the United States courts have no jurisdiction of a maratime contract of affraightment upon lake Michigan, from one port to another in the same state.

Hence we see that the laws of the several states have no extra territorial, or exterior power, and are limited by the constitution, government, and laws of the United States in their interior power. Contracts made in one state by a citizen thereof, to be executed in another state, must be regulated by the laws of the latter state, in the absence of any law of congress for the regulation thereof. Companies incorporated by a state for banking, insurance, or other purposes, have no power to make contracts beyond the limits of such state, except by virtue of the laws or courtesy of the state or country in which the same may be made. On the contrary, congress has power to regulate by law, bills of exchange, promissory notes, and other commercial contracts, made in one state, to be paid or executed in another, or made in a foreign country, to be executed in the United States; and may prescribe the time and mode of presenting and protesting such bills and notes, and the time and mode of giving notice to the endorsers, in order to charge them with the payment thereof;

but congress has no power to regulate by law, bills of exchange or promissory notes drawn and payable in the same state. The latter class of bills and notes must be regulated exclusively by the laws of the state. And as a general rule, property and persons, the domestic relations and contracts, are all governed by the municipal laws of the respective states, as interior and local, not national concerns.

Sec. 9. Municipal laws, and the distinction between state and United States laws.

The word municipal is of Roman origin, and originally designated that which pertained to a free city, town or corporation. Its signification was afterwards extended, and as now used it includes all the internal affairs, laws, and institutions of a state, kingdom, or nation. Its proper use has always been restricted to matters more or less local, internal, and domestic; and in that sense I use it. Municipal laws include all the laws, and those only, which apply exclusively to the internal affairs and institutions of a state. Each state has laws and domestic institutions differing more or less from those of every other state. The laws of the several states and the administration of justice therein by state judges and magistrates, are as totally distinct from, and independent of each other, as those of England and France are—the powers and jurisdiction of each being local, and confined within the limits of the state. Hence they are, properly speaking, inter nal, local, domestic, and municipal laws.

But to understand, fully and clearly, what are municipal laws, it is necessary to understand what are not laws of that character. Each state may prescribe the laws pertaining to domestic bills of exchange, notes, drafts, and checks, drawn in and payable within the state, and the laws so prescribed are municipal; but foreign bills of exchange and promissory notes, drawn in one state and payable in another, or in a foreign country, or drawn in a foreign country and payable in a state, are governed by the law merchant, as a general rule, and not by the municipal or local laws.

The navigation laws of a state or country, so far as they pertain to the rivers, harbors, lakes, and bays, within its territorial limits, are, strictly speaking, municipal laws; but so far as they pertain to

navigation upon the high seas, they must conform to the laws of nations, which are blended with and form a portion of the maratime code of every nation.

The navigation of Oneida, Seneca, and Cayuga lakes, and the ferries across the Hudson river above the New Jersey line, and also the ferries across the sound from New York to Long Island, are all governed by the laws of the state of New York, as completely and exclusively as the canals of the state are. These laws are properly called municipal laws, because they pertain exclusively to the internal affairs of the state. But navigation between New York and foreign countries is governed by the maratime code of nations, and the acts of congress blended together. So the coasting trade, from state to state, on the ocean, and the inter-state trade and navigation on lakes and rivers, are governed exclusively by the laws of congress, by virtue of that clause of the constitution authorizing congress to regulate commerce among the several states. The coasting trade, and inter-state commerce and navigation not being confined within the limits of a state, could not be governed by laws of a strictly municipal character.

Power having been granted to congress, to regulate foreign commerce, and commerce among the states, and with the Indian tribes, those grants of power include power to regulate all such commercial contracts, including foreign bills of exchange, and notes drawn in the prosecution of such commerce, notes drawn in one state payable in another, and all contracts for affreightment, and maratime contracts made in carrying on such commerce. Congress can also regulate by law, all contracts which may be made in carrying on the federal government. It does not occur to me that there is any other class of contracts which congress has power to regulate. All other contracts made within a state are of a strictly municipal or domestic character, and therefore governed as to their validity, verification and construction, by the state laws. Congress has neither common nor statute laws upon the subject of such contracts, and no power to pass any.

So all conveyances of lands and real property within a state, and all contracts relating thereto, are governed by the lex loci rei sitae; that is, by the law of the state where the same are situated. Laws to regulate marriages, the marriage relation, and all the de-

mestic relations; laws for the protection of persons, personal liberty, property and character, including those to punish slander and libel, both civilly and criminally; laws relating to slaves and slavery; laws to check and punish crimes, offences and vices, with the exception of offences against federal statutes; police regulations; laws regulating schools and education, religious and philanthropic societies, cities, counties, and towns, roads and bridges, rail roads and canals, banking, insurance, rail road, and canal companies, and all other private corporations, are all, (strictly speaking), municipal or domestic laws, under the exclusive jurisdiction of the state governments. Congress has no laws upon such subjects, either statute or common, and no power to pass any. In administering justice, in civil cases, in the several states, the federal courts administer the local and state laws respectively, the same as the state courts do—the national government having no municipal common law, and no statute laws to supply its place, except a declaratory statute, that "*the laws of the several states shall be regarded as rules of decision in trials at common law in the courts of the United States, in cases where they apply.*"

In admiralty and maratime cases, the federal courts administer the laws of nations, and the navigation and criminal laws of the United States; in equity cases, they are governed by the general principles of equity jurisprudence, and universal laws as modified and extended in some instances by the lex loci rei sitae; in all other civil cases the federal courts are governed either by the law of the forum, or by the lex loci contractus.

Congress has no power to punish murder, arson, robbery, rape, larceny, burglary, assault and battery, forgery, or any other natural crime within a state, except forgery and perjury against the laws of the United States.

The federal courts have no jurisdiction over common law offences in the states, and congress has no power to confer on them any such jurisdiction. Nor has congress any power to restrain or punish vice of any kind within a state. All such crimes and offences, and all matters of police are of a municipal character, subject to state legislation only, and not within the powers of the federal government. Within the limits of the states, the national government can take cognizance of only artificial crimes and of-

fences against its own proper authority and laws. The state governments are the sole conservators of the morals of the people, and of the public peace and good order of society—the federal government having no power to legislate upon such subjects, and no power to punish crimes against individuals, or against individual property. The federal courts take cognizance of only statutory crimes and offences prescribed by congress; and congress has no power to make statutory crimes and offences, except so far as it may be necessary to do so, as a means of executing its laws, and attaining the ends and national purposes for which it was established.

Congress has power to protect the officers of the federal government from violence or molestation, while in the discharge of their official duties, and to punish such offences. This is a matter of necessity, to ensure the execution of the laws; but congress has no power to punish either verbal slander or libels of federal officers, for the purpose of protecting their character, unless the same be published in the District of Columbia. Federal officers must look to state laws, and to state laws only, to protect them from slanders and libels. Congress cannot confer on the federal courts, for the convenience and protection of federal officers, any such powers and jurisdiction as have been exercised for centuries, under mere fictions of law, by the courts of Exchequer and King's Bench of England. Federal officers must rely on the state courts for the protection of their private rights.

Sec. 10. National common law of the United States.

The United States have no municipal common law; no common law upon municipal questions and subjects; but they have a national common law, which applies only to national questions and subjects. The law merchant of England, at the time of the American revolution, which regulated foreign bills of exchange and notes, and the liabilities of the drawers, makers, and endorsers thereof, constitute a part of the national common law of the United States, subject to such alterations as congress may see fit to make.

So much of the old maratime laws of England, as are generally recognized by the laws and usages of civilized nations, constitute a

part of the national common law of the United States. Such is the case also with the admiralty laws; the laws and usages of civilized nations which regulate the mode of waging war, treating prisoners, punishing spies and pirates, prohibiting trade in contraband goods, regulating the rights of neutral nations, and prescribing the rules for blockades, and the rights of privateers. Congress may, by statute, regulate the details of action in all such matters, in such manner as not to infringe the laws of nations, to which the principles of universal law require them to conform.

In the organization of the executive departments of government, congress authorized the president of the United States to appoint the heads of departments, and to commission them, and certain other officers during his pleasure. Under such statutes, a practice has grown up, and been tacitly sanctioned by congress, during a period of more than sixty years, until it has ripened into established usage, and become a part of the national common law of United States, by which the president and the several heads of departments remove from office all their civil appointees, except judges. In that way the precedents, practices, and usages of the government ripen into law, and are gradually forming a code of national common law, upon various subjects of a national character.

The statutes of the United States must be interpreted, in order to be carried into effect, not only by the courts of justice, but also by the heads of departments, heads of bureaus, and other officers, who are required to execute them. The first constructions given to them serve as precedents to guide future action; on which practice and usages are founded, which ripen into common law by the tacit consent of the legislative power.

Under and by virtue of acts of congress, courts of justice, heads of departments, and heads of bureaus also, are authorized to adopt rules and regulations, to govern their own proceedings, in the discharge of their duties, and in carrying the laws into effect. The rules so prescribed form the basis of practice and various usages which soon ripen into common laws by the tacit consent of congress. In this mode, a great body of national common laws has grown out of the rules and practice of the supreme court of the United States, and out of the rules of practice of the treasury

department and its bureaus, the post office department, and each of the other departments of the government; and also out of the land office, patent office, pension office, Indian bureau, and the bureaus in the war and navy departments. In such modes our code of national common law is growing annually; though upon national subjects only; and it can never be rightfully extended to municipal subjects.

SEC. 11. CHECKS AND BALANCES OF THE FEDERAL GOVERNMENT. LARGE MAJORITIES NECESSARY TO CARRY IT ON.

Government and laws being necessary to society, the powers of legislation and of administering a government must necessarily be either in the hands of the majority, or a minority; for it is impossible for all to agree. In almost every country of Europe, the minority govern, and the majority are subject to their rule; but the fundamental principle of our democratic federal republic is, that the majority shall rule. In all the state governments, and in the city and local governments organized under them, a bare majority rule, for the time being, with no restraint except the laws of the land. But in the federal government it is far otherwise. That government is organized with numerous checks and balances for the protection of state rights and powers, and the rights of minorities, from the selfish ambition and tyranny of majorities.

Before any measure can become a law, it must command the assent and concurrence, first of a majority of the people represented in the lower house of congress; secondly of a majority of the states, represented in the senate; and lastly, the approval of the president of the United States. Those checks are so great, and the local interests and sectional jealousies of our immense country are so numerous, that in practice, it requires the concurrence of the representatives of from three-fifths to two-thirds of the people, to pass any law. So great has been the attachment to the Union and the federal government, that there has never been any difficulty under any administration, to command sufficient majorities to pass revenue and appropriation bills necessary to carry on the government; but it has often been very difficult to obtain the requisite majorities, and the approval of the president, to other classes of appropriations, and in favor of new measures, and espe-

cially measures which tend to promote the interests of only a portion, or section of the Union.

The leading rebels in the great rebellion have pretended that the election by the republicans, of Mr. Lincoln to the presidency, endangered the rights of the slaveholding states. But the pretence was a false one, set up to alarm the people of the south and unite them in the rebellion—for the reason that if all those states had remained in the Union, and their senators and representatives had continued in their seats in congress, the opponents to the republicans would have had a majority in both houses of congress, and could have controlled the federal legislation, and effectually prevented the passage of any measures prejudicial to the interests of the southern states. If those states had remained in the Union, their senators and representatives could and would have prevented the passage of the bills to abolish slavery in the District of Columbia, and to prohibit it in the territories of the United States; and the administration of president Lincoln would have pased away quietly, without making any impression whatever upon the institution of slavery.

With the single exception of the imperfect machinery for the election of president and vice-president, the constitution of the United States is the most perfect instrument of the kind ever formed by man.

Sec. 12. National governments are necessarily judges of the extent of their own powers.

In our system of government the sovereignty of the several states being divided between the national and state governments, there are two co-ordinate sovereignties in each state, each complete within its sphere, but limited as to the subjects to which it applies. The two co-ordinate sovereignties are not however entirely equal in contemplation of law, as independent nations are. If they were so, it would be impossible to avoid conflict. On the contrary, in all cases of concurrent jurisdiction, the national government and laws take precedence and priority over the state government and laws, and the national government being made by the constitution the sole arbiter between the states, it must, from the necessity of the case, judge of the extent of its own powers,

and of the mode and propriety of their exercise. Hence the federal government and laws are superior to the state governments and laws, and in case of concurrent jurisdiction or conflict, the former must prevail over the latter; but in theory, each is supreme within its exclusive sphere, and both should move on harmoniously together.

Each operates directly upon both persons and property, and neither can operate directly upon the other. So far as regards the levy and collection of internal and direct taxes and excises, organizing, arming, and disciplining the militia, calling them into the service for certain purposes, and governing them, and the administration of justice in certain classes of civil cases, the powers of the national and state governments operate upon the same persons and subjects matter, and are concurrent. In all such cases, where the two governments have concurrent jurisdiction, the national government has the priority and precedence whenever it is necessary or expedient to exercise the power for national purposes; and the legislative and executive branches of the national government are, and must be, from the nature of the case, the sole judges of the necessity and propriety of its exercise, and the sole judges of all questions of national policy; and the legislative branch alone, including the president, must necessarily be the judges of the extent of the powers of the federal government—subject to the revolutionary right of resistance by the people of states, in case of palpable and dangerous usurpations of power, which threaten the overthrow of state rights.

It is impossible for two governments to have concurrent jurisdiction over the same persons and subject matter, with entire equality of right and power, without more or less conflict and confusion, which must occasionally lead to violence and war. All the independent nations of the earth have co-ordinate jurisdiction over the high seas, and having no common arbiter to settle their difficulties, and no modes of settling them but diplomacy and war, each nation must, from the necessity of the case, judge of its own rights and powers, subject to the perils of war, if they commit flagrant outrages upon the rights of others. The want of a common arbiter between nations having equal rights and powers, frequently and unavoidably leads to war; and yet the want is of such a nature that it is impossible to supply it.

One of the principal objects of government is to settle difficulties and obviate conflicts between the different peoples, cities, countries, districts, provinces, or states, subject to its jurisdiction. The government of every civilized country takes jurisdiction of, and settles by legislation, judicial and executive action, all questions and controversies arising between itself and its citizens and inhabitants; and between the different peoples, countries, states, provinces, and districts, over which it extends. In our system of government, each state has exclusive power and jurisdiction to act upon and settle, all questions and controversies between itself and its people, between individual citizens or inhabitants thereof, and between the several counties, cities, villages, and corporations therein; while the constitution confers on the courts of the United States power and jurisdiction, to adjudicate upon and determine all cases affecting ambassadors, other public ministers, and consuls; all cases of admiralty and maratime jurisdiction; all controversies to which the United States shall be a party; all controversies, (including questions of boundary), between two or more states; and all controversies between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens, or subjects. [See ante. pages 52 and 53.]

Every national government must, from the necessity of the case, be the ultimate judge of the extent of its own powers, of the propriety of their exercise, and of their modes of exercise; subject only to the checks of public opinion, and to the revolutionary rights of the people, in cases of misrule, usurpation, or oppression. That rule applies as much to the government of the United States, as to any other government. It is substantially provided for by the 9th and 13th of the articles of confederation, adopted in March, 1781, (ante. pages 25 and 29); and also by the 18th subdivision of section 8, article I, (ante. page 48), and section 2, of Article III, of the constitution of the United States, (ante. pages 52 and 53.) No government could exist very long without such a power, to avoid as well as to settle controversies, and to provide for its wants and exigencies.

Such a power is as reasonable as it is necessary. Our federal government is the representative of the nation; the representative of all

the states in the Union; and it is charged with the duty of protecting the national rights of the people of all the states, and of settling all the controversies between two or more states, between citizens of different states, and between every state and the citizens thereof, and foreign states, and the citizens and subjects thereof.

Congress and the president representing the whole nation, exercising the legislative and executive powers thereof, must have the sole right to judge of the extent of their powers, and the mode, propriety, and necessity of their exercise; otherwise a single state, or the people of even the fraction of a state, might deny the validity of any act of the government, and effectually nullify it; whereby a fraction of the Union would exercise more power than the government of the whole Union. Such are the absurdities of the doctrines of nullification and secession.

Such a mode of interpreting the constitution of the United States, and the powers of the federal government, as the nullifiers and secessionists have acted upon, would deprive the several states of any common arbiter as between each other, for the settlement of controversies; and by depriving them of that essential power, which is, or should be, inherent in every government, it would expose the states to the same dangers of conflicts and wars between each other, and also between each border state and foreign powers, that are unavoidable between independent nations.

As the only checks to the power of each nation to keep it within the laws of nations and prevent it from enchroaching upon the rights of other independent nations, are the public opinion of the civilized world, and the dangers of war; so the only ultimate checks to the usurpations of the federal government, and the oppressions of a state or section of the Union, or the people therof, consist of public opinion, a resort to the ballot-box, and the revolutionary right of the people. But the ultimate right of revolution and rebellion should be resorted to only in extreme cases, after long continued usurpations and oppressions, which the elective franchise, after a faithful trial, shall have proved insufficient to remedy.

The constitution of the United States formed a Union—not a mere league. It formed a Union intended to be perpetual, to the maintenance of which the faith of all the states was bound. It

formed a supreme national government, with power to command and use all the means necessary to execute its laws, to maintain its supremacy, and to attain all the purposes and objects for which it was established; and not a mere compact or league between sovereign and independent states, dependent on the will and caprice of each state for its continued existence. Hence the grants of power made by the constitution invest the law-making power of the nation, with power and authority to judge of the extent of the powers of the government, and of the several departments and officers thereof.

SEC. 13. COL. BENTON'S VIEW OF THE NATURE OF OUR GOVERNMENT.

In the great debate in the United States senate, in 1830, Col. Benton, then senator from Missouri, said,

"That whatever may be the wishes or the opinions of the people of Missouri on the subject of the extension or non-extension of slavery, to the territories, they have no idea of resisting any act of congress upon the subject. They abide the law when it comes, be it what it may, subject to the decision of the ballot-box and the judiciary. I concur with the people of Missouri in this view of their duty, and believe it to be the only course consistent with the terms and intention of our constitution, and the only one which can save this Union from the fate of all confederacies, which have successively appeared and disappeared in the history of nations. Anarchy among the members, and not tyranny in the head, has been the rock on which all confederacies have split. The authors of our present form of government knew the danger of this rock, and they endeavored to provide against it. They formed a UNION—NOT A LEAGUE. A federal legislature to act upon persons, not upon states; and they provided peaceful remedies for all questions, which could arise between the people and the government. They provided a federal judiciary to execute the federal laws when found to be constitutional, and popular elections to repeal them when found to be bad. They formed a government in which the law and the popular will, and not the sword, was to decide questions; and they looked upon the first resort to the sword for the decision of such questions, as the death of the Union.

The old confederation was a league, with a legislature acting upon sovereignties, without power to enforce its decrees, and without union except at the will of the parties. It was powerless for government, and a rope of sand for union.

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It was to get rid of the evils of the old confederation, that the present Union was formed; and, having formed it, they who formed it undertook to make it perpetual, and for that purpose had recourse to all the sanctions held sacred among men—commands, prohibitions, oaths. The states were forbid to form compacts or agreements with each other; the constitution and the laws made in pursuance of it, were declared to be the supreme law of the land; and all authorities, state and federal, legislative, executive, and judicial, were to be sworn to support it." [See "Thirty Years' View in the United States Senate," by Thomas H. Benton, vol. 1, p. 360 to 362.]

CHAPTER IV.

ORIGIN AND CHARACTER OF THE ANGLO-AMERICAN COLONIES AND PEOPLE.—FANATICISMS AND DELUSIONS OF THE AMERICAN PEOPLE.—CHARACTER AND CORRUPTIONS OF AMERICAN POLITICS,—THE INCREASING DISREGARD OF LAW, OF THE UNION, AND THE FEDERAL CONSTITUTION; AND THE CONDITION OF THE COUNTRY PREVIOUS TO THE REBELLION.

SEC. 1. TYPES OF CIVILIZATION AND NATIONAL CHARACTER.

The principal elements which form types of civilization and national character, are,

1st—Climate, and the influences of climate upon the constitution of man, which become, to some extent, permanent and hereditary, and are transmitted from one generation to another, for thousands of years.

2d—Education; and

3d—Religious opinions and creeds.

Mens' opinions on subjects other than religion, are formed by the joint operation of their education, their religious creeds and opinions, and their own personal experience, observation, associations with others, and reflection. Their habits and industry arise from their education, their wants and opinions, and the climate and condition of the country in which they live.

Constitution, habits, and opinions form the character of men; but climate, education, and modes of living form their habits, and in conjunction with the hereditary tendencies arising from the animal economy, they form the constitution also. Man is an imitative creature, and learns mostly from imitation and practice. The

mass of mankind imbibe and acquire their opinions mostly by and through their education and religion. By education, I mean the whole training and exercise of the faculties during childhood and youth, by play, amusements, and industry, as well as at school. An industrial training and discipline tends to develop the faculties, and is as much a real part of education, as that obtained at schools and institutions of learning. Thousands grow up in idleness and play, in the streets of cities and villages, whereby certain faculties and propensities are developed and disciplined, which constitute their education. In this view of the subject, every adult human being has been educated; his faculties have been developed; and he has acquired capacities and tendencies which fit him for some end or purpose, for good or for evil; though he may be called, in common parlance, uneducated.

Individual character depends immediately and directly on constitution, habits, and opinions; but ultimately on climate, education, and religion. Types of civilization and national character, are therefore really based on climate, education, and religion, as their natural foundations, and chief corner stones; to which slavery may be added as a chief corner stone in some communities and nations; but it is entirely artificial and unnatural.

The wide, and clearly marked differences between races and peoples of hot and cold climates, and the great similarity of those of the same latitude and climate, when other causes are nearly the same, furnish full and incontestible evidence of the powerful influence of climate upon the intellectual and moral nature and character of man, as well as upon his physical constitution.

The history of the Hebrews, Greeks, Romans, and other ancient nations, and also the Mahometans, and the different sects of christians in modern times, sufficiently attest the wonderful influence of religion and religious institutions, upon the character of a people. Even the differences between different denominations of christians, who all derive their religious instruction from the same bible, have contributed largely to form distinct types of character and civilization. Where Catholics and several sects of Protestants have lived together in the same community for half a century or more, as they have in the United States, sectarian prejudices gradually wear off, and the rising generations, educated at the same

schools, become more and more assimilated to each other. The philosophy of Confucius, in China, the Mahometanism and Boodhism in the old world, and Mormanism in the new, have produced distinct types of civilization and human character.

The influence of education in forming and moulding the intellect and character of man is so obvious to all, as to be universally admitted.

It is impossible to obtain a correct view of the character of the American people, and of their institutions and tendencies, or of any other people of modern times, without taking into careful consideration their religious opinions and character, and also their origin and history. Education has for centuries been intimately connected with religious opinions, and very generally dependent upon christian churches for its encouragement and support. The United States are indebted mostly to the Puritans and Presbyterians for the universal education of the people of the free states at the present day; but they are indebted to the Baptists, Quakers, Roman Catholics, and Dutch Reformed, for religious liberty.

SEC. 2. ORIGIN AND RELIGIOUS CHARACTER OF THE ANGLO-AMERICAN COLONIES.

The Colony of Virginia.

The Episcopalians and Cavaliers planted the first permanent Anglo-American colony in this country, at Jamestown, on the James river, in Virginia, in 1607. The Episcopal became the established church of the colony of Virginia, and continued so until the American revolution. The Quakers, Puritans, and other schismatics and separatists were driven out, and generally prohibited from settling in the colony, until the English revolution, of 1688; after which the doctrine of toleration was established for all christian sects, except Roman Catholics.

The Puritan Colonies.

The Puritans of England settled four colonies in New England; first, Plymouth, in 1620; secondly, Massachusetts Bay, at Salem, in 1628; third, New Haven, at Saybrook, in 1635; and, fourthly, Connecticut, at Hartford and Windsor, in 1636.

The colonies of Connecticut and New Haven were united under one charter and one colonial government, in 1665, and the two

colonies of Plymouth and Massachusetts Bay were united in like manner, under one colonial government, in 1692.

The Puritans were the most exclusive in their associations, the most rigid and inflexible in their action and manners, the most intolerant in their feelings and principles, and the most proscriptive and persecuting in their practice, of any of the American colonists.

The Puritans of Massachusetts Bay, at an early day, established a theocratic colonial government, in which they disfranchised all inhabitants, and even all freeholders, who were not members of the orthodox church; and limited the privilege of voting and eligibility to office, to adult male members of the Congregational church. That theocratic and exclusive system was maintained about sixty years, and until after the English revolution of 1688, and the reorganization under a new charter in 1692.

No churches, religious societies, clergymen, or religious teachers of any kind, except the Congregational, were allowed in any of the Puritan colonies, until after the English revolution of 1688. Baptists, Episcopalians, Presbyterians, and Quakers, as well as other Protestants and Catholics, were all excluded from those colonies by law—and many that came there were cruelly persecuted, fined, and banished, and four Quakers were hung, because they returned to the colony of Massachusetts Bay, after having been banished. Some Quakers and Puritans also were banished from Virginia; but no persons were judicially murdered on account of their religious opinions or worship, in any of the Anglo-American colonies, except Massachusetts.

Even the Congregational churches or societies enjoyed no practical independence or liberty, except the privilege of managing their own secular affairs, selecting their own clergymen from those recognized as orthodox, and disciplining their own members in accordance with the rules of discipline prescribed by synods and conventions. There were at first wide differences of opinion among the Puritan colonists themselves. Many came over whose opinions differed very little from the creed and doctrines of the Episcopal church; but their creed, doctrines, and modes of worship and discipline, were gradually settled and reduced to a system by synods and conventions; and all the churches and people were required to conform strictly to them.

No regard was paid to individual opinions or conscience in matters of religion. Individual liberty was crushed out; and all persons were required to conform to the established orthodox faith, worship, and discipline; or else they were denounced as heretics or schismatics, and laws were passed by the colonial legislatures, denouncing them as seditious persons, and disturbers of the public peace—and subjecting them to fines, imprisonment, banishment, and various other modes of punishment; and death as a last resort.

By such means, the clergy, and a few of the shrewdest and most adroit politicians among the laity, ruled both church and state with a rod of iron. They established uniformity in matters of religion, and enforced it with more searching vigilance, and greater severity, than was ever done in England under the English acts of uniformity; and for about sixty years, and until after the English revolution of 1688, they actually attained as near an approximation to uniformity of opinion and religious worship, as was ever attained in Italy or Spain, under the Popish Inquisition.

That distinguished American geographer, the Rev. Jedidiah Morse, D. D., himself a Puritan by birth and education—born and educated in Connecticut, and for more than twenty years a Congregational minister in Massachusetts, says in his geography:

"Mr. Roger Williams, a minister who came over to New England in 1631, was charged with holding a variety of errors, and was on that account cruelly forced to leave his house, land, wife and children, at Salem, in the dead of winter, and to seek a residence without the limits of Massachusetts. * * * * * In 1636, Mr. Williams and four others, crossed Seekhonk river, and landed among the Indians, by whom they were hospitably received, and thus laid the foundation of a town, which from a sense of God's merciful Providence to him, he called Providence."

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"The unhappy divisions and contentions in Massachusetts still prevailed, and in the year 1636, Gov. Winthrop strove to exterminate the opinions which he disapproved. Accordingly a synod was called at Newtown, (now Cambridge), on the 30th of August, when eighty erroneous opinions were presented, debated and condemned; and a court holden in October following, at the same place, banished a few leading persons of those accused of these errors, and censured several others."

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"The whole colony of Massachusetts, at this time, was in a violent ferment. The election of civil officers was carried by a party spirit, excited by religious dissention. Those who were banished by the court, joined by a number of their friends, went in quest of a new settlement, and came to Providence, where they were kindly entertained by Mr. R. Williams; who,

by the assistance of Sir Henry Vane, jun., procured for them, from the Indians, Aquidnick, now Rhode Island. Here, in 1638, the people, eighteen in number, formed themselves into a body politic, and chose Mr. Coddington their leader, to be their judge or chief magistrate. This same year the sachems signed the deed or grant of the island."

The theocracy of Massachusetts was overturned, their despotic power limited, and their political and religious tyranny moderated by the British crown; first, by forfeiting their charter, on account of the tyranny practiced under it; secondly, by limiting their powers under the new charter of 1691, and making all their laws subject to the approval of the crown of England; and, lastly, by vetoing and annulling their sanguinary and tyrannical laws for hanging witches, and persecuting, banishing, and otherwise punishing Quakers and other persons for their religious opinions; whereby some degree of religious toleration was established in the Puritan colonies. But religious liberty was not fully established in Connecticut, until the year 1818, and not in Massachusetts until the year 1833. [See ante. pages 81, 94, 98, 109, and 110.] Religious liberty, in modern times, has been of slow growth. It is generally the last kind of liberty which man obtains.

Rhode Island, New Hampshire, Maine, and Vermont.

The first settlers of Rhode Island were fugitives from the religious persecutions of the colony of Massachusetts Bay, as before stated. [See ante. page 199.] Perfect religious liberty was first established in America, by Roger Williams, at Providence, in Rhode Island. [See ante. page 81.] It had not existed in Europe, since the reign of the Roman Emperor, Constantine, in the fourth century. That noble act of Roger Williams and his fellow colonists, constitutes an era in the history of modern civilization. It soon taught the christian world by example, that different sects of christians, (each enjoying full religious liberty), could live together in peace and harmony. It constituted the germ of truth, which served to enlighten the people of other colonies and nations; pointed out the way by which religious liberty has been fully established in all the states of this Union; and has had its influence upon every country of Europe.

Other fugitives from the religious persecutions of Massachusetts and other Puritan colonies followed. When the persecution of the Quakers by the Puritans commenced in 1658, many of them

fled to Rhode Island, as a place of refuge; and in a comparatively few years, they had societies of Baptists, Episcopalians, and Quakers, and afterwards Moravians and Jews; all of whom were excluded from the Puritan colonies.

Though many Puritans emigrated to New Hampshire and Maine, yet the great body of the early settlers were Baptists, Episcopalians, Presbyterians, and Quakers, all of whom, except the Congregationalists, were excluded from the Puritan colonies, and some of them were fugitives from Puritan persecution.

The Puritans never had any influence either in the colony or state of Rhode Island, and very little in New Hampshire, and at this day, there is greater affinity between the people of Western New York and Massachusetts, than there is between the latter and either Rhode Island, New Hampshire, or even Maine.

Vermont was settled a few years before the revolutionary war, by Puritans, and other Protestant sects from the New England colonies. It was never under the exclusive dominion of the Puritans, and was never afflicted with intolerance, or religious persecution.

The Colonies of New York and New Jersey.

The present states of New York and New Jersey were colonized and settled by the Dutch from Holland, and called New Netherlands. They named the city of New York New Amsterdam, and planted a colony there about the year 1615, at Albany, in 1614, and Bergen, in New Jersey a few years afterwards. They established the Dutch Reformed church; but being more liberal than the Puritans of New England, or the Episcopalians of Virginia, they allowed freedom of conscience and freedom of opinion in matters of religion, and tolerated private worship of other Protestant sects, but did not tolerate the erection of churches and public worship, by any religious society except the Dutch Reformed.

The Swedes and Finns planted settlements on both sides of the Delaware bay and river, in the southern part of New Jersey and in Delaware, from 1627 to 1630, but they were conquered by the Dutch, in 1655, and subjected to the government of the Dutch colony of New Netherlands. They numbered only about 700. The Swedes and Finns were Lutherans, and the first people of that sect who emigrated to America.

The New Netherlands were conquered in 1664, by the English,

and became British colonies. The population was then estimated at about 10,000. In the treaty of cession, the religious rights and liberties of the Dutch were granted to them; which ever thereafter secured religious toleration in the colonies of New York and New Jersey; and those colonies soon became an asylum for the persecuted sects that were excluded from the Puritan colonies.

Under the English dominion, the Episcopal church was established in the colonies of New York and New Jersey, but following the spirit of the treaty with the Dutch, and the noble example of religious freedom set in Rhode Island and Maryland, all other sects of Protestants were tolerated.

New Jersey was divided into East and West Jersey, in 1674, and the proprietary interest in West Jersey was sold to the Quakers. They purchased it for an asylum for that sect of people, who were cruelly persecuted in England, and also in Virginia and the Puritan colonies of New England. The Quakers soon formed large settlements in West Jersey, and in some counties of New York.

The Colony of Maryland.

In 1632, a patent was issued by King Charles, to the son and heir of Lord Baltimore, for the present state of Maryland, with power to establish and maintain a colonial government therein, subject to the British crown. He and his friends planted in Maryland the first and only colony of English Catholics ever established on this continent. He was an educated gentleman of much prudence, wisdom, and sagacity. Having witnessed and felt the influence of the cruel persecutions which the Catholics had suffered in England, he appreciated the virtues which were called christian, during the first three and a half centuries of the christian era; but which had been generally repudiated in Europe during more than twelve centuries. He invited Protestant as well as Catholic settlers, and practically established religious toleration in Maryland, from the first settlement of the province; and with the example before him of some degree of religious toleration in Holland and in the New Netherlands, and the still brighter example of religious liberty in Rhode Island, he drew up a bill which was passed by the provincial assembly, in 1649, and became a law, in which it was provided,

"That no persons professing to believe in Jesus Christ, should be molested in respect to their religion, or in the free exercise thereof, or be compelled to the exercise of any other religion against their consent; so that they be not unfaithful to the proprietary, or conspire against the civil government."

Dr. Morse remarked upon the subject, (referring to the period of 1649), as follows:

"Virginia, at this period, animated by a very different spirit, passed severe laws against the Puritans, whose ministers were not suffered to preach. This occasioned numbers to emigrate to Maryland."

"Extraordinary scenes were, at this time, exhibited on the colonial theatres. In Massachusetts, the Congregationalists, intolerant towards the Episcopalians, and every other sect; the Episcopal church retaliating upon them in Virginia; and the Roman Catholics of Maryland, tolerating and protecting all."

Not only Puritans, but many Baptists, Presbyterians, German Lutherans, and Quakers also, went to Maryland, as an asylum from religious persecution. The Quakers went there before their purchase of West Jersey, as heretofore stated.

Settlement of North and South Carolina.

The first permanent settlement made in North Carolina was made at Albermarle, about the year 1660, by refugees who fled from religious persecution in Virginia. In 1662, king Charles II, granted to Lord Clarendon and seven others, a charter or patent for the whole of the present states of North and South Carolina, and part of Georgia. Under that grant a settlement was made at Charleston, in 1669, and at some other places soon afterwards, and a proprietary government was established. Some Germans emigrated to the Carolinas, but the most of the settlers were from Great Britain, Virginia, and New England, until after the revocation of the edict of Nantz, by Louis XIV, in 1685. The religious persecutions following the revocation of that edict, drove out of France great numbers of Protestants, who were called in derision, Huguenots. Some escaped to Switzerland, some to Germany, and others to Holland, many to Great Britain, and a considerable number eventually made their way to America, and settled in the provinces of New York and South Carolina.

The church of England was established with certain privileges; but all sects of Protestant christians were tolerated, and no religious persecutions ever occurred in the Carolinas.

The Province of Pennsylvania.

A royal charter for Pennsylvania was granted, in 1681, to Wm. Penn, a Quaker, who planted in it a colony of Quakers or Friends and established a proprietary government. In accordance with the pacific and christian principles of his sect, Wm. Penn and his followers established the principles of religious liberty and equality in the province of Pennsylvania, for all sects of christians, except Roman Catholics, and invited settlers from the continent of Europe, as well as from Great Britain and Ireland. Under his mild dominion, and the liberal and just system of government established in the province, great numbers of refugees, flying from religious dissentions and persecutions in Europe, came to Pennsylvania as a place of refuge, and the province increased rapidly in population. Presbyterians from England, Scotland, and the North of Ireland; Lutherans, Calvinists, or the Reformed church, Moravians, Mennonites, and Dunkers from Germany; and Quakers from Great Britain, and also some from Holland and Germany. But the Quakers constituted a majority of all the inhabitants, and had the control of the government of the province for more than seventy years, and until about the year 1755.

The Colony of Georgia.

In 1732, letters patent were issued by the king to twenty-one persons, constituting them and their successors a corporation for settling and establishing colonies in the present state of Georgia. The avowed object was a charitable one—to aid in sending, as emigrants, poor and indigent people of Great Britain and Ireland, who were out of employment, to enable them to improve their condition in a new country. The company sent out within a few years, at a very large expense, several parties of emigrants, consisting of English, Scotch, Welsh, Irish, and some Germans, who formed the first settlements in that state. The trustees of the company established a proprietary government and encouraged emigration to the province of all Protestant sects of christians, and even Jews. Free toleration of all Protestant sects was thereby practically established from the first settlement of the province.

Charters of the Colonies.

All the Anglo-American colonies were settled under patents or charters from the kings or government of Great Britain, granted to distinguished persons—with power to establish and maintain governments therein, and to enact laws with the concurrence of the freeholders thereof. The settlements were generally made at a very heavy charge to the proprietors, incurred in defraying the expenses of sending over large numbers of poor emigrants, and giving them lands, or giving them leases of lands, on small quit-rents, to be paid annually after a certain number of years—the proprietors expecting to indemnify themselves, eventually, out of those quit-rents, trade, and the sale of other lands, after the country should become considerably settled. The claims and doctrines of squatter's rights, and squatter sovereignty, were unknown in those days. Those doctrines were not developed until near the middle of the nineteenth century.

Religious toleration was first established in Virginia and the Puritan colonies of New England, after the English revolution, of 1688; it had been established, practically, long before that time, in all the other colonies then settled.

French settlers north and west of the Ohio river.

The French population north-west of the Ohio river, was not included in the census of 1790. They were then estimated at nearly 6,000—adding them, it would swell the white population of the United States to about 3,180,000; of whom probably about 2,800,000 were of British and Irish descent—200,000 German, and persons of German descent; 125,000 Low Dutch; 40,000 Huguenots and French Catholics; and 15,00 Swedes, Finns, Jews, and Italians.

German Settlers.

There were, in 1790, probably more than 100,000 Germans in Pennsylvania; large settlements of them in several counties on the Hudson and Mohawk rivers, in the state of New York, in Western Maryland, Western Virginia, and each of the states of North and South Carolina, and some in Georgia. Their descendants migrated from Pennsylvania westward, and settled central

Ohio, central Indiana, and made many settlements in Illinois and Missouri. They continue to this day a distinct people, and all over thirty or forty years of age, speak the German language; but the modern system of common schools and universal education is rapidly teaching the rising generation the English language, and Americanizing them. Their localities can be marked and the numbers estimated with reasonable accuracy, by the churches returned in the census of 1850. The German churches are Lutheran, German Reformed, Moravian, Mennonite, and Tunker or Dunker. The Mennonites are German Baptists; there are also some German Methodists. The Catholic German immigrants, who have come to our country during the last forty years, have settled in all the north-western states, in nearly all the northern states, and in some of the southern states.

Methodist Church.

The Methodists were first organized into societies, as a distinct church, in England, in the year 1739, and in the Anglo-American colonies, in 1766. They were comparatively few in number, until after the revolutionary war, and hence they did not figure in our colonial history. The census of 1850 shows that they are now scattered throughout all the states, and are the most numerous denomination of christians in the United States—having about thirty-four per cent. in numbers of all the churches, and nearly one-third of all the church accommodations. There are some German Methodist churches, but the Methodists are mostly of English and Welsh descent.

French Settlements.

The French settled at Quebec, in 1608, established a missionary station among the Indians on the Island of Montreal, in 1642; made a settlement, and laid the foundation of the city of Montreal, in 1659; explored the St. Lawrence river, the great lakes, and the water courses connecting the chain of American lakes, which form the sources of the St. Lawrence river, and also the Mississippi river from near its source to its mouth; established several missionary stations among the Indians, in the basin of the great lakes; settled in Detroit in 1701, and soon afterwards established mis-

sionary stations and made settlements at Gallipolis, in Ohio, Vincennes, in Indiana, Kaskaskia and Cohokia, in Illinois, and at several places in Wisconsin. They claimed the valleys of the St. Lawrence and Mississippi rivers, and their tributaries, and the basin of the great lakes, as New France.

In 1716, the French built a fort and called it Fort Rosalie, and made a settlement at the present site of the city of Natchez; which was the first settlement made in the Lower Mississippi. In 1718, the city of New Orleans was founded, and the first settlement made there by the French.

The English, with the aid of the Anglo-American colonists captured Quebec, in 1759, and Montreal, in 1760. The power of France, on the continent of America, being effectually overturned, the province of Louisiana, including all that part of the country west of the Mississippi river, and also that part south of the 31st degree of latitude, was ceded by the French king to Spain, in 1762; and the Canadas, with the whole country north of the 31st degree of latitude, and east of the Mississippi river, were ceded to Great Britain the following year.

The population of the province of Louisiana, at the time of its cession to Spain, in 1762, was estimated at 10,000. Spain held it forty years, during which period some Spanish settlements were made. In 1802, the province of Louisiana was ceded back by Spain to France, and in 1803, it was purchased by president Jefferson, and ceded by Napoleon Bonaparte to the United States. The census of 1810 indicates that the population, at the time of the cession, was in round numbers very nearly as follows: White inhabitants of French and Spanish descent, (mostly French), about 40,000; slaves, 30,000, and free colored persons, about 7,000; total, 77,000, all of whom, that had any religion, were Catholics. About two-thirds of them were within the limits of Louisiana, and one-third in Missouri and Arkansas.

Indented Servants.

It had been the custom in England, and many countries of Europe, for centuries prior the settlement of America, for boys to serve as apprentices for a series of years, before the laws allowed them to follow any trade or mechanical employment. They usu-

ally served under articles of agreement, called indentures, and they were called indented apprentices. It was then, and is still, common in England, for agricultural and other laborers and female servants to be bound by indentures in like manner. They were bound for a certain number of years, and *called indented servants.* That custom was transferred to the Anglo-American colonies; and during the period of their existence as colonies, great numbers of indented servants were sent over as laborers—consisting of young persons, and poor people, both males and females. Thousands were sent over under indentures, by which they bound themselves to labor a certain number of years, to pay for their passage; and thousands were brought over by ship-masters, under an engagement that on their arrival they should be sold to pay a certain sum for their passage.

That class of emigrants were deemed essential to the industry and success of the colonies; and great efforts were made, and large expenses incurred by the proprietors of the provincial grants and charters, to procure them and ship them to the colonies. Agents were kept in cities, and in some instances sent to Germany, to procure that class of persons as emigrants; and in many cases, convicts from the prisons of Europe were sent over as indented servants.

That class of people were in a state of temporary servitude. They owed service and labor for a certain number of years to their masters, who were bound to provide for them, and furnish them necessary food, clothing, and lodging, in sickness, as well as in health. That class of persons were introduced into all the colonies, but were more numerous in the southern and middle colonies than they were in New England. Their numbers diminished as the African slave-trade became more active, and negro slaves more numerous.

Professer Tucker, in his life of Mr. Jefferson, says that, according to an official communication from the governor, Sir Wm. Berkly, made in 1671, the population of the colony of Virginia was then estimated at 40,000; of whom 2,000 were negro slaves, and 6,000 were white indented servants; that the importation of slaves did not exceed two or three cargoes in seven years; but the introduction of white servants he estimated at 1,500 annually, the most of whom were English, a few Scotch, and fewer Irish.

Mr. Hildreth, in his "History of the United States," in speaking of the introduction of that class of persons, as late as the year 1750, says:

"The importation of indented white persons, called "servants," or sometimes "redemptioners," in distinction from the negroes, who were known as slaves, was still extensively carried on, especially in the middle colonies. The colonial enactments for keeping these servants in order, and especially for preventing them from running away, were often very harsh and severe. They were put, for the most part, in these statutes, on the same level with the slaves, but their case in other respects was very different. In all the colonies, the term of indented service, even where no express contract had been entered into, was strictly limited by law, and, except in the case of very young persons, it seldom or never exceeded seven years. On the expiration of this term, these freed servants were absorbed into the mass of white inhabitants, and the way lay open before them and their children to wealth and social distinction. One of the future signers of the declaration of independence was brought to Pennsylvania as a redemptioner. In Virginia, at the expiration of his term of service, every redemptioner, in common with other immigrants to the colony, was entitled to a free grant of fifty acres of land, and in all the colonies certain allowances of clothing were required to be made by the late masters. Poverty, however, and want of education on the part of the mass of these freed-men, kept them too often in a subservient condition, and created in the middle as well as in the southern colonies an inferior order of poor whites, a distinction of classes, and an inequality in society almost unknown in republican New England."

In treating of the condition of things in the colony of Massachusetts, in 1631, Mr. Hildreth says:

"Besides the indented servants sent out by the company, the wealthier colonists brought others with them. But these servants seem, in general, to have had little sympathy with the austere manners and opinions of their masters, and their frequent transgressions of Puritan decorum gave the magistrates no little trouble."

There is much reason to believe, that one half of the emigrants to the colony of Pennsylvania were indented servants, or redemtioners, (that is, persons sold for their passage, and allowed to redeem themselves by a certain number of years' service); and that three-fourths of the emigrants to the southern colonies, were persons of the same classes. Great numbers of indented servants were also brought to New York and New England.

The condition of white servants in the colonies, explains the origin of the poor whites in the slave states, and the wide distinction between them and the rich and educated classes from the first settlement of the colonies. They were not made poor by slavery. They were always poor, and have been kept poor from generation to generation, by the joint influence of ignorance, the enervating effects of the climate, the indirect influences of slavery, and the

general discouragement of manufacturing industry in the southern states. If as great efforts had been made at the south, by the state governments and the educated classes of people, to establish manufactures and common schools, and to educate the whole people, as were made in the Puritan colonies of New England, and have been made in the state of New York during the last fifty years, the condition of the poor whites of the slave states would have been very different at the present time.

Emigration to the United States.

Emigration to the colonies was suspended by the revolutionary war, and was comparatively small from the close of the war, until after the war of 1812. The number of emigrants that came to the United States between the years 1790, and the war of 1812, have been estimated by competent judges, on the best evidence attainable, at only about 150,000, and about 100,000 between the close of the war and the year 1820; and the whole number of alien passengers to the United States, by sea, during ten years, from 1820 to 1830, were less than 144,000. But few Irish Catholics came until the commencement of the New York canals, in 1817, caused a large demand for laborers; and the great flood of Irish and Germans did not come until after the mania for internal improvements became very general, about the year 1830, and the demand for laborers had been thereby greatly increased.

After deducting from the official reports of the number of alien passengers arriving in the United States, for the estimated number of persons coming on business, or as visitors, about three-fourths as many as the United States passengers reported as returning home from abroad, I have estimated the number of emigrants to the United States during the ten years, from July 1st, 1820, to June 30th, 1830, at 124,000

July 1st, 1830, to June 30, 1840,	569,000
July 1st, 1840, to June 30, 1850,	1,670,000
July 1st, 1850, to June 30, 1860,	2,540,000
January 1st, 1815, to June 30, 1820,	97,000
Total from 1815, to June 30, 1860,	5,000,000

The emigration to the United States from 1846 to 1860, inclu-

tive, was unprecedented in the history of the world; and there is reason to believe that it will become very large again, after the close of the present civil war. About four millions of the inhabitants of the United States were born in foreign countries; about 2,500,000 of whom are Roman Catholics, and 1,500,000 Protestants. Dr. Morse estimated the Catholic population of the United States, in 1790, at 50,000, confined mostly to the state of Maryland. In 1860, they exceeded 4,000,000, and were numerous in every state in the Union. They consist of Irish and Germans, a few French, and fewer Spanish and Mexicans. They have very few sympathies in common; none except what grow out of their religion. There is no union of feeling, and no cohesion among them; and hence no danger to our country ever need be apprehended from their combination. Our common schools and republican institutions are Americanizing them very rapidly. They are very strongly attached to the Union and to the federal government; industrious, economical, and frugal, but not very enterprising. They are not often enthusiastic, visionary, or extravagant, or what we sometimes term fast people. There is very seldom any fanaticism among them, and hence their influence is generally of a conservative character and tendency.

Such are the discordant elements and materials—the varieties of race, peoples, languages, religions, education, habits, customs, manners, and opinions—forming a medly or hotch-pot, out of which the American character is to be formed; for it can hardly be said to be fully formed at present. We must rely upon our common schools, our republican institutions, customs and usages, the English language, and English and American learning and literature, to assimilate this mass of discordant materials, and form for us three or more types of civilization and character, in many respects the same, and all approximating to one type and standard of national character.

Sec. 3. DIVERSITIES OF RACE, LANGUAGE, RELIGION AND OPINION; AND AMALGAMATION.

The opinion is common, that the people of the United States are an amalgamation of all the races of western and central Europe; but there is no truth in that opinion. There has never been much

amalgamation or mixture of races in our country, except what has arisen from an illicit intercourse of white men with slaves and other colored women. Marriages are generally contracted between persons moving in the same or similar circles of society. It is very seldom that persons of different races, or persons speaking different languages, or professing religious creeds widely different, ever inter-marry. Such differences present strong barriers to social intercourse, render it difficult for the parties to make themselves agreeable to each other, and tend to keep them asunder, and to keep the races distinct. Different races mix in marriage with nearly as much difficulty as oil and water. They require peculiar circumstances to operate as an alkali, to unite them. Not only differences of race, language, and education, but differences of religious opinion and association, tend also to keep parties asunder, and prevent intermarriages. Protestants of the same race and language, professing the same or similar religious opinions, and moving in the same circle of society, usually marry together; Jews marry Jewesses; Quakers marry Quakeresses; German Catholics, as a general rule marry German Catholic women; German Lutherans marry German Lutheran females; a Catholic Irishman marries a Catholic Irish girl or woman. The Low Dutch, in the state of New York, kept themselves a distinct people, so long as they continued to speak the Dutch language; and the same may be said of the French and other races of people in the United States.

The amalgamation of races in this country has been comparatively trifling; but the amalgamation of opinions on all subjects but religion, and the amalgamation and assimilation of habits, manners, customs, and character, have been very great indeed. The Americans, like the people of all other nations, have generally inherited their religious opinions, or imbibed them from education and association in early life; but there has been a constant and strong tendency to amalgamation and assimilation in the opinions of a social, political, moral, educational, and industrial character; and upon subjects connected with the practical business of life. Foreigners coming here very soon become partially Americanized, and at the same time they often communicate to our people valuable mechanical and practical information, which they bring with them from their native country.

The differences of race, religion, and climate in the United States, and the divisions of opinion, habits, customs and modes of industry, arising from such causes, furnish subjects of thought and discussion, and serve to produce a healthy activity of mind, which tends to develop the intellectual faculties of the people; and in the absence of any violent religious or anti-slavery agitation, such causes very seldom disturb the peace and harmony of a nation, or destroy its unity.

The general use of the English language, English and American learning and literature, the press, common schools, universal suffrage, and our system of politics and public meetings, all tend to teach foreigners the English language, to wear off their foreign prejudices and habits, to imbue them with American ideas and opinions, and to assimilate their opinions and habits more and more to American standards. This is the amalgamation which is constantly going on in our country; and this is almost the only amalgamation which exists here to any considerable extent. After the assimilation has become complete, or nearly so, and traces of foreign origin are nearly extinguished, then, and not till then, intermarriages become frequent between the descendants of different races.

Such has been the effect in the state of New York of these several causes of assimilation, including the universal education of children and youth in their common schools, during the last sixty years, that it is now difficult to distinguish the youth and young persons of Dutch and German descent in the valleys of the Hudson and Mohawk rivers, from those of New England descent, who have been bred in the same counties. The effects of similar causes in Pennsylvania, Ohio, and other states, have been similar, though not so great, and the assimilation not so complete and perfect; but time and the continued operation of such causes will eventually make it so. There are only three causes of difference which cannot be overcome; one, and probably two of which will continue to operate forever. They are diversities of climate, of religion, and slavery.

Such are the causes which have been gradually forming for the people of the United States three national characters, in many respects the same; but in others widely different. The first is the

New England character, in which the Puritan elements greatly predominate; the second is the southern character, which is the old English character of the Cavaliers of the seventeenth century, changed and modified by climate and the institution of slavery; the third is a mixed character, and the only one much mixed that has approximated to a national type.

The mixed type of character has been produced in south-eastern, southern, and central New York, New Jersey, Pennsylvania, and all the north-western states excepting the Connecticut Western Reserve, which comprises the north-eastern part of Ohio, bounded east by Pennsylvania, north by Lake Erie, and south by the 41st degree of latitude. This mixed type of character is formed by the amalgamation of opinions, habits, manners, and customs of the descendants of emigrants from England, New England, Scotland, Ireland, Holland, France and Germany—the amalgamation being nearly complete in many of the counties of New York, New Jersey, and Michigan, but much less so in the other states. The same causes however continue in operation, and the process will go on, until the assimilation is as complete as it is in any country of Europe. The inhabitants of New York living north of the tier of counties lying on the Mohawk river, and also those west of Cayuga lake, are mostly of New England descent; and are as completely assimilated to the New England type of character as those of Maine or New Hampshire are. It will require perhaps a couple of generations more to assimilate the inhabitants of many districts of Louisiana, of French descent, to the general type of southern character; but such a result is not very far distant. The differences of climate are so great, that the people of the United States can never be reduced to one type of national character.

Sec. 4. Puritans and Puritanism.

The Puritans arose in an age of religious schisms, dissentions, and fanaticisms, in the sixteenth century, when Protestantism was in an unsettled condition. They were a class of dissenters in England, who grew up and increased during the reign of Queen Elizabeth and her successors, James I, and Charles I, and gradually separated from the church of England. They were rigid Cal-

vinists, and pretended to stricter discipline and greater holiness of life than any other people. They condemned some of the customs and ceremonies of the English church as heretical and idolatrous; but one of the principal causes of their separation was the strong tendency of the church of England to depart from the tenets of rigid Calvinism, and to occupy a middle ground between Calvinism and Arminianism. Their peculiar views were first reduced to form and system in New England.

Puritanism contained the leaven of fanaticism in many particulars, some of which it still retains—fanaticism on the subject of dress and manners, customs and amusements, the importance that should be attached in modern times to the principles of the Old Testament dispensation, and a strong tendency to blend religious with political principles, and to infuse their peculiar dogmas into the legislation and government of the country. All these tendencies were exhibited in the tyrannical and intolerant legislation of Connecticut, and the theocratic system of government and the persecuting laws and edicts of the General Court of Massachusetts Bay. The same spirit, in a milder form, is still exhibited in the Maine liquor laws, and in the action of the abolitionists.

Puritanism is not pure religion; but religious principles and usages blended with various isms and fanaticisms—upon the subject of manners, customs, morals, and government.

The Puritans were industrious, frugal, austere, and ascetic in their manners and customs, proscribed all amusements, attached an extraordinary degree of importance to education, and were rigidly devoted to their own peculiar views. Their asceticism and full belief that they were the elect of God, inclined them to superstition, fanaticism, and intolerance, of what they honestly deemed error, heresy, and idolatry. They have ever been wonderfully ambitious to spread their good principles and doctrines; and to reform, educate, and mould mankind in accordance with their views and dogmas; and hence they have been very ambitious for political as well as ecclesiastical dominion—to enable them to evangelize the world, and crush out vice and error. Their great ambition has rendered them none the less selfish and tyrannical, whenever they succeed in getting the staff of power into their own hands. They have manifested some of the same characterestics in England and in

America; which were fully exhibited by the first Governor Winthrop, of the colony of Massachusetts Bay, and afterwards by Oliver Cromwell.

The distinguished historian, Thomas B. Macauly, in his history of England, gives descriptions of the Puritans of England, from which the following are extracts:

"While a section of the Anglican clergy quitted, in one direction, the position which they had originally occupied, a section of the Puritan body departed, in a direction diametrically opposite, from the principles and practices of their fathers. The persecution which the separatists had undergone had been severe enough to irritate, but not severe enough to destroy. They had not been tamed into submission, but baited into savageness and stubbornness. After the fashion of oppressed sects, they mistook their own vindictive feelings for emotions of piety; encouraged in themselves, by reading and meditation, a disposition to brood over their wrongs; and when they had worked themselves up into hating their enemies, imagined they were only hating the enemies of Heaven. In the New Testament there was little indeed which, even when perverted, by the most disingenuous exposition, could seem to countenance the indulgence of malevolent passions. But the Old Testament contained the history of a race selected by God to be witnesses of his unity and ministers of his vengeance, and specially commanded by him to do many things which, if done without his special command, would have been atrocious crimes. In such a history it was not difficult for fierce and gloomy spirits to find much that might be distorted to suit their wishes. The extreme Puritans, therefore, began to feel for the Old Testament a preference which, perhaps, they did not distinctly avow even to themselves, but which showed itself in all their sentiments and habits. They paid to the Hebrew language a respect which they refused to that tongue in which the discourses of Jesus and the epistles of Paul have come down to us. They baptized their children by the names, not of Christian saints, but of Hebrew patriarchs and warriors."

"In defiance of the express and reiterated declarations of Luther and Calvin, they turned the weekly festival by which the church had, from the primitive times, commemorated the resurrection of her Lord, into a Jewish Sabbath. They sought for principles of jurisprudence in the Mo aic law, and for precedents to guide their ordinary conduct in the books of Judges and Kings. Their thoughts and discourses ran much on acts which were not recorded as examples for our imita ion. The prophet who hewed in pieces a captive king; the rebel general who gave the blood of a queen to the dogs; the matron who in defiance of plighted faith, and the laws of Eastern hospitality, drove the nail into the brain of the fugitive ally who had just fed at her board, and who was sleeping under the shadow of her tent, were proposed as models to Christians suffering under the tyranny of princes and prelates."

"Morals and manners were subjected to a code resembling that of the synagogue, when the synagogue was in its worst state. The dress, the deportment, the language, the studies, the amusements of the rigid sect were regulated on principles resembling those of the Pharisees, who, proud of their washed hands and broad phylacteries, taunted the Redeemer as a Sabbath-breaker and wine-bibber. It was a sin to hang garlands on a May-pole, to drink a friend's health, to fly a hawk, to hunt a stag, to play at chess, to wear love-locks, to put starch into a ruff, to touch the virginals, to read the Fairy Queen. Rules such as these—rules which would have appeared insupportable to the free and joyous spirit of Luther, and contemptible to the serene and philosophical intellect of Zuingle, threw over all life a more than monastic gloom."

"The learning and eloquence by which the great reformers had been eminently distinguished, and to which they had been, in no small measure, indebted for their success, were regarded by the new school of Protestants with suspicion, if not with aversion. Some precisians had scruples about teaching the Latin grammar, because the name of Mars, Bacchus, and Apollo occured in it. The fine arts were all but proscribed. The solemn peal of the organ was superstitious. The light music of Ben Johnson's was dissolute. Half the fine paintings in England were idolatrous, and the other half indecent. The extreme Puritan was at once known from other men by his gait, his garb, his lank hair, the sour solemnity of his face, the upturned white of his eyes, the nasal twang with which he spoke, and, above all, by his peculiar dialect. He employed, on every occasion, the imagery and style of Scripture."

"The Puritans, in the day of their power, had undoubtedly given cruel provocation. * * * They proved as intolerant and as meddling as ever Laud had been. They interdicted, under heavy penalties, the use of the Book of Common Prayer, not only in churches, but even in private houses. It was a crime in a child to read by the bedside of a sick parent, one of those beautiful collects which had soothed the griefs of forty generations of Christians. Severe punishments were denounced against such as should presume to blame the Calvinistic mode of worship. Clergymen of respectable character were not only ejected from their benifices by thousands, but were frequently exposed to the outrages of a fanatical rabble Churches and sepulchers, fine works of art, and curious remains of antiquity, were brutally defaced. The Parliament resolved that all pictures in the royal collection which contained representations of Jesus or of the Virgin Mother should be burned. Sculpture fared as ill as painting. Nymphs and Graces, the work of Ionian chissels, were delivered over to Puritan stone-masons to be made decent. Against the lighter vices the ruling faction waged war with a zeal little tempered by humanity or by common sense. Sharp laws were passed against betting. It was enacted that adultery should be punished with death. That illicit intercourse of the sexes, even where neither violence nor seduction was imputed, where no public scandal was given, where no conjugal right was violated, was made a misdemeanor. Public amusements, from the masques which were exhibited at the mansions of the great, down to the wrestling matches and grinning matches on village greens, were vigorously attacked. One ordinance directed that all May-poles in England should forthwith be hewn down. Another proscribed all theatrical diversions. The play-houses were to be dismantled, the spectators fined, the actors whipped at the cart's tail. Rope-dancing, puppet-shows, bowls, horse-racing, were regarded with no friendly eye; but bear-baiting, then a favorite diversion of high and low, was the abomination which most strongly stirred the wrath of the austere sectarians."

The Puritans of New England have the virtues in great activity and vigor, improved by education, which are common in cold climates; many of which cannot be produced in a hot climate, and cannot long exist there, when transplanted from a cold one. Neither Puritans nor Puritanism can exist very long in a hot or warm country. The climate soon changes their character. Many have emigrated from New England to Georgia and New Orleans, but their children are never Puritans.

Common Schools and Education.

Having the good sense to adopt the opinions and the practice of the Presbyterians of Scotland upon the subject of education, the

legislatures of the Puritan colonies of New England passed laws in the years 1647 and 1648, for the establishment of a school in every town. They soon made a common school education universal, and established colleges for the higher grades of education. The Puritans of New England were not only superior in acquirements and intelligence to the inhabitants of the central and southern colonies; but during the last half of the 17th, the whole of the 18th, and the first half of the 19th century, they were beyond all comparison, the best educated people in the world. Their system of common schools for the education of the people was put in operation nearly a century and a half in advance of that in New York, and more than a century and a half earlier than the general establishment of similar institutions in Rhode Island, New Jersey, Pennsylvania, or any one of the southern states, except Maryland. From this cause, and this only, has arisen the extraordinary power and influence of the Puritans during the last hundred years. They were nearly all educated, while more than three-fourths of the inhabitants of the other states were uneducated. Their superiority and success has arisen from their education, intelligence, and industry, and not from the peculiarities and austerities of Puritanism.

Sec. 5. The Puritans not friendly to religious, civil, or political liberty.

The claim has been often made that the Puritans fled from tyranny in England, to establish and enjoy religious liberty, in America. But it was an idle boast, totally destitute of truth. That they left England to escape the tyranny of the government under the influence of the Episcopal hierarchy, is very true. They came here to establish their own independence of that government and hierarchy, and to enjoy their own opinions and forms of religious worship, and to establish a tyranny of their own. They were the most inveterate and determined enemies of religious liberty, of any of the settlers of the thirteen colonies.

Massachusetts was the birthplace and the cradle of colonial independence; but not of either religious or civil liberty—as has been erroneously claimed. Liberty is often confounded with independence—though it is in reality a very different thing. The word

liberty has generally the same meaning as the word freedom—but not the same as independence. Liberty is a personal attribute; it is a word which applies to individuals, and not to an organized community, church, state, or nation. Independence is an attribute of communities, churches, states and nations; when applied to them, it has very nearly the same meaning as liberty has, when applied to individuals.

Every nation having its own ruler or rulers, who constitute its government and make its laws, by which it is governed, is an independent nation, though it may be governed by an absolute monarch. A nation may be independent, though the people do not enjoy the least degree of either political, civil, or religious liberty. Russia, Austria, Turkey, Persia, and China, are independent empires; but what is the condition of their people?

The Puritans of New England are entitled to great credit for their sturdy spirit of independence, pure morals, great energy, industry, and frugality; also for their noble efforts in establishing schools and colleges, promoting education, diffusing knowledge and christianity, asserting and defending the rights of the colonies, and laboring to establish their independence. But to assert that they established religious liberty in America, or that they contributed to do so, is setting up a false claim, which cannot be maintained.

Their forms of church government were Congregational—each congregation was nominally independent, elected its own pastor, managed its own secular affairs, disciplined its own members—but here its independence ended. The doctrines of the church and the principles of discipline were all established by synods and conventions of all the churches of a colony, in which the clergy had a controlling influence, quite as great as the hierarchy has in the church of England.

The Puritans themselves, who sincerely believed all the doctrines and were devoted to the forms and religious worship of their churches, enjoyed religious liberty; because every thing was in accordance with their wishes; consequently there was no violence to either their wills or their opinions. The devoted Catholic of the city of Rome, under the immediate and absolute government of the pope and his cardinals, enjoys the same kind and degree of

religious liberty; they do as they please, because they please to do in accordance with the orders and decrees of the holy father, as they term the pope. But there was no liberty in those colonies for persons that differed in opinion in religious matters from the established doctrines, modes of worship, or system of discipline of the Puritan churches. Baptists, Episcopalians, Quakers, and even Presbyterians, were all regarded and treated alike, as dangerous schismatics, and disturbers of the public peace. All ministers and other persons who attempted to teach doctrines and principles differing from the Puritan churches, were denounced as schismatics—as teachers of sedition—and were fined, imprisoned, banished, or otherwise punished by the civil magistrates in accordance with the laws and customs of those colonies. Many were banished on pain of death, in case of return. They banished Roger Williams, and great numbers of Baptists, Episcopalians, and Quakers; and inflicted capital punishment by hanging, on four Quakers, because they returned after they had been banished.

The Puritans acted upon the same principle as the emperors of Rome did, from the middle of the fourth century, to the fall of the empire—to crush out all differences of opinion which were deemed erroneous, as heresies, dangerous alike to the church and the state; and to punish by banishment or otherwise, all schismatics—with a view to establish uniformity of opinion in matters of religion. The popish inquisitions of Italy, Spain, Portugal, and other countries, and the English acts of uniformity, and to punish heretics, were all based on the same erroneous, fanatical, and despotic principles.

The political as well as the ecclesiastical government of the colony of Massachusetts Bay was a theocracy, consisting of the clergy and church members only—of the one orthodox church. It was not a democracy, for the reason that church members only were eligible to office, and church members only were voters. A majority, and as Judge Story and Mr. Hildreth say, more than three-fourths of the adult males of the colony were disfranchised, were not allowed to vote, and had no participation in the government.

None of the people who were not members of the orthodox church, enjoyed the slightest degree of political liberty; which consists in the enjoyment of the right and privilege of participating in the election of officers of government.

The inhabitants who denied the orthodox faith did not enjoy even civil liberty—which embraces all the rights of citizenship—together with freedom of opinion, freedom of speech, and freedom of the press; but civil rights were denied to persons who did not profess the orthodox faith—and instead of civil liberty being allowed to them, they were liable to be banished, imprisoned, or otherwise punished, as disturbers of the public peace; and great numbers were so punished.

Such was the polity, and such the action of the early Puritans of Massachusetts; and such were their ideas of religious, civil and political liberty. Their opinions were too rigid and uncompromising, and their action too earnest, energetic, and harsh to be consistent with either religious, civil, or political liberty.

If all the states had been originally settled by Puritans only, they would have established in this country a system of religious and civil despotism, as rigid and oppressive as ever existed in any country of Europe. But as it was, Puritanism constituted only one of many conflicting elements which balanced and partially neutralized each other, and finally blended together in the formation of the American people, and the American character. Puritanism may have improved, in some respects, the compound in forming the character of the people in the middle and north-western states, but there was too much of it in the states of Massachusetts and Connecticut.

Fortunately for the country, the dominion of the Puritans of Massachusetts was eventually overturned by schisms and divisions among themselves. Many of their clergy fell into latitudinarianism, and finally into Unitarianism and Universalism; and when they and their people separated from the mother church, they left the orthodox Puritans in the minority, constituting less than one-third of the churches of the state.

Sec. 6. The Quakers—their origin, peculiarities, and virtues.

George Fox, the founder of the sect of Friends or Quakers, commenced an itinerant course of preaching, in England, about the year 1647 or 1648. He inveighed with severity against drunkenness, dishonesty, and the vices of the times; attacked the clergy and the established modes of worship, and maintained that

the light of the gospel in the mind was the only means of salvation, and the only qualification necessary for the gospel ministry. He soon drew a great number of followers, who were formed into religious societies and churches; but being dissenters from the established church, they were subjected to persecutions in England, as well as in several of the Anglo-American colonies for about forty years, and until after the English revolution of 1688, and the passage of the toleration act under William and Mary.

Fox was a pious enthusiast and a fanatic, but had as sound an intellect as is consistent with a high degree of religious fanaticism. The leading principles of the sect are, 1st, that the reason of man, enlightened by the gospel, is sufficient to guide and save him, if he will use it rightly; and, 2d, that religious teachers should speak from an immediate internal impulse, the gift of God, and need no previous education, study or preparation. Those principles contain the germs of individuality, of freedom of thought and opinion, and of religious and civil liberty.

The morals of the Quakers were of the purest kind, and their ideas of honesty in dealing of the strictest character. Their habits of abstaining from all excesses, from extravagance, and all matters of fashion in dress, from the use of intoxicating liquors, and from all amusements, rendered their manners in some measure stiff, rigid, and ascetic. Their peculiar opinions on the subject of war and bearing arms, slavery, and the payment of tithes and and taxes for religious purposes, often brought them into conflict with the government and with the communities in which they lived, tended to promote a fanatical opposition to the governments and laws, and to fix on them the stigma of turbulence and faction, and of being disturbers of the public peace. With the exception of those peculiarities, which served to separate them entirely from all other sects and people, no country had better or worthier citizens. The American people are largely indebted to the Quakers for their religious and civil liberty, for their sound principles and noble examples in temperance and in morals, for the abolition of slavery in the northern states, and for the abolition of the slave-trade in Great Britain, as well as in the United States.

Their unfortunate tenets in relation to the ministry tended to check the spread of their doctrines, to lessen their influence in

society, and to dwarf it to such a degree, that it is now dwindling into insignificance. No church can long maintain itself in this age of the world, without an educated ministry, set apart and devoted to its service.

The Quakers and Puritans have some characteristics in common. Both have ever been opposed to amusements; both are rigid in their morals; and both have agreed on the anti-slavery movement—to labor to restrict the extension of slavery, and to aid in abolishing it. But in many respects the two are diametrically opposed to each other. Quakerism is modest, gentle, and forbearing, retiring and unobtrusive; while Puritanism is bold, active, and energetic, sharp, vigilant, and enterprizing, often officious and meddling, and animated with an ambition to teach and govern the world.

I have discussed the leading characteristics of the Puritans and Quakers, for the reason that they were the only peculiar people who have had much influence upon the early history and destiny of the United States.

Sec. 7. Fanaticism and Demagogism.

Human selfishness, craft and cunning necessarily suggest and produce more or less scheming and intrigue in all communities, and under all forms and systems of government; and some degree of selfish scheming and management, usually called demagogism, seem to be inseparable from a popular or democratic form of government. Our country has withstood the constant operations of more or less political scheming and demagogism for more than seventy years, without any great danger to our institutions, or to the stability of our Union and national government; but it may well be doubted, if it can long withstand the combined and alternate shocks of both demagogism and fanaticism.

Fanaticism is not often regular and continuous, as demagogism is. It is generally of an irregular, spasmodic, and temporary character; and hence there is ground to hope that the present fanaticism of the country may become exhausted, and that the nation may survive its attacks and all its operations.

Fanaticism is of various kinds—more commonly religious, but often political, and sometimes social and moral. Imaginary hopes

and fears, some degree of delusion, superstitious beliefs in supernatural things, and in frequent special providences, inordinate zeal and enthusiasm, all constitute elements of fanaticism—though they are never all united in the same person.

Some degree of delusion is a necessary element of fanaticism; either a delusion of opinion, that some real or imaginary persons have a supernatural power that does not in fact exist; or that some supposed or assumed truth or principle is actually so, when in fact it is not so; or that some real thing, principle, measure, or remedy, is two, three, or five times as advantageous, dangerous, or pernicious, as it really is. How numerous have been the delusions in relation to medical remedies!

Inventors are generally more or less deluded and tinctured with fanaticism in relation to their inventions—authors in relation to their works—politicians in relation to the soundness and importance of their principles and leading dogmas—and clergymen, and very zealous laymen also, in relation to their particular views and doctrines.

All the intolerant laws upon the subject of religion, and all the religious persecutions from the fourth century to the present time, were suggested by religious fanaticism. The crusades to the Holy Land, in the 11th and 12th centuries, were caused by religious fanaticism. The throne of England was overturned, and Charles the first beheaded, by reason of the combined influence of religious and political fanaticism, and personal ambition. The first French revolution was inaugurated by social and political fanaticism, and the monarchy was overturned, and Louis the sixteenth beheaded, by the combined operation of social and political fanaticism, personal ambition, and demagogism. France was then distracted and controlled by political fanaticism, for several years; and the monarchy was again overturned by it in 1830, and a third time in 1848.

There was much religious and political fanaticism blended together in the Puritan colonies of New England, during the 17th century. The imprisonment of a great number of persons, at Salem, Boston, and other places, on charges of witchcraft, the trial and conviction of many on such charges, and the execution of more than twenty of them, furnish memorable evidence of the

deep-rooted superstition and fanaticism of the Puritans of the colonies of Massachusetts Bay and Connecticut.

Mahomet, the founder of the Mahometan religion in the 7th century, was a great fanatic, and there is much reason to believe that he was also in some measure a lunatic, or monomaniac. Ann Lee, the founder of the sect of Shakers, was also a fanatic, and in some degree a lunatic, or monomaniac. George Fox, the founder of the sect of Friends, or Quakers, was also a fanatic, though not a lunatic. The peculiar doctrines of the Qakers, of the operations of the spirit, contain the very essence of fanaticism.

The Puritans of Old England, and New England also, were greatly tinctured with fanaticism. The latter were the only people in America, who judicially murdered a great number of persons under the pretence that they were witches; and the only people in the Anglo-American colonies, who ever judicially took the life of persons, on account of the preaching or propagation of their religious opinions. The Maine liquor law fanaticism has been mostly confined to the descendants of the Puritans; and the greatest violence of the anti-slavery fanaticism has been the result of the teaching of the descendants of the Puritans, though the movement was commenced in a mild form by the Quakers of Pennsylvania.

The anti-slavery feeling of the northern people did not run into fanaticism until about the year 1832, and it was first confined to a small class of abolitionists in Massachusetts, united to agitate the question as a moral one. The leaven of fanaticism was gradually diffused by the press, the pulpit, traveling lecturers, public meetings, conventions, and addresses, until it became political, and the liberty party was formed. The agitation was continued and increased by the annexation of Texas; by the Mexican war; by the efforts of slavery propagandists to acquire Cuba and other southern countries and territories, to be admitted as slave states—to give them the permanent control of the federal government; and, lastly, by the repeal of the Missouri compromise, and the persistent efforts of the pro-slavery party to force slavery into all the territories of the United States.

These causes operating at the north, excited a very strong moral and religious, and anti-slavery sentiment, which was soon blended

with the political and partizan feelings of the day, caused the formation of the republican party, and produced great enthusiasm, and much fanaticism in favor of strong measures to prevent the extension of slavery. The southern people soon became very greatly imbued with political, as well as pro-slavery fanaticism, and a determination to extend slavery into the territories, or to separate from the Union, and form a southern confederacy. The result has been, that the politics of our country, both north and south, have been controlled, since 1854, by demagogism and fanaticism operating together; on one side by pro-slavery fanaticism, demagogism and selfish ambition; and on the other side by anti-slavery, moral, religious, and political fanaticism, combined with more or less personal ambition and demagogism. If the Union be permanently destroyed, these will be the principal causes of its destruction.

The people of the free states having no self-interest to blind them to the evils of slavery—all that had any moral sense, regarded slavery as a system which does great injustice to the slave, and produces great moral, social, and political evils in a community. The christians and philanthropists of the south, also, very generally regarded slavery as productive of many evils; while many, at the south, regarded it as necessary to the highest degree of civilization in a country.

The abolitionists attribute to slavery evils, vices, and defects of character, which arise from climate and other causes; and look upon the evils of the institution as from two to five times as great as they really are. On the other hand, the people of the south either regard slavery as a positive good, or consider its evils as not a fourth part as great as they are. Here are wide differences of opinion, honestly entertained—both extremes being mere delusions, which constitute the germs of much of the moral, religious, and political fanaticism of our country.

Sec. 8. Prayers of enthusiasts, and their influence.

Enthusiasts of great piety and zeal, who have a tinge of fanaticism in their minds, frequently offer their prayers to Almighty God, and beseech him to become in some measure their agent, to

carry into effect their crude opinions, and to execute their fanatical purposes.

Of their conscientiousness and honesty of purpose, there is no reason to doubt; and their zeal for the propagation of what they believe to be the true principles of christianity, is equally beyond question. They are zealous to crush out what they believe to be error and heresy, and to propagate truth; but while they see the moat in others' eyes, they are unable to behold the beam in their own. They are impatient in waiting for the slow operation of God's Providence, in making changes in the political and social economy of man; and in their blind zeal, seem filled with the assurance that they can improve upon the order of things established by God, and the system of laws by which he governs the Universe.

Many of their prayers are not only Pharisaical, but the very essence and quintessence of sectarian glorification and self-righteousness. If one half of their crude and discordant prayers were regarded and carried into effect by the Deity, the world would become a babel of confusion, and the human family would be involved in constant dissensions, bitter controversies, violent strifes, and bloody wars—much worse than existed in Germany and western Europe, during the greatest part of the 16th and 17th centuries—for the reason that they would be in families and small communities, as well as in nations and churches; and peace and harmony among mankind would be impossible.

When persons having a fervid imagination and a tinge of fanaticism in their natures, pray sincerely to God to enlighten them upon a particular subject, and to direct and guide them in the path of duty, they are very apt to become confirmed in the belief that they are really taught of God; and that their views and opinions are the result of the influence of the Holy Spirit operating upon their minds. I can conceive no other method of accounting for the strange delusions and fanaticisms, the intolerance and spirit of persecution, which sometimes beset the minds of eminently pious, and in other respects, very good men.

But the question arises, have Catholics, Protestants, and Bishops of the Greek church—Trinitarians and Unitarians—Calvinists and Arminians—Puritans and Quakers—Lutherans, Episcopalians

Presbyterians, and Congregationalists—Baptists and Methodists, and all other sectarians who are sincere, been taught of God their peculiar views and opinions? If not, who have been so taught, and who have not? Among the almost infinite variety of discordant opinions upon religious subjects, have we not the right to draw the conclusion, that they are all the result of human reasoning, in interpreting the Holy Scriptures, and considering the duties and proper action of man? What other conclusion can be fairly drawn from the conflicting opinions upon religious questions, and the discordant opinions upon political subjects, of pious men, who are equally honest and equally sincere, and equally devoted to the cause of christianity?

Sec. 9. A political sermon.

To give my readers a good specimen of the political sermons of the day, in which religious and political fanaticism are blended together, I present them with the following editorial, from the Ann Arbor Journal, of July 30th, 1862:

On Sunday afternoon, July 27th, the Rev. Mr. G. preached in the Baptist Church a funeral sermon, on the occasion of the death of a son of Dr. C., who was wounded at the battle of Malvern Hills, on the James river, in Virginia, July 1st, and died July 10th. He selected for his text the words, "The very hairs of your head are numbered." It was the most violent political sermon we ever heard.

He took the position that the war was caused by, or grew out of, slavery; that it was caused by our national sins—the greatest of which he believed to be violent party spirit, and slavery.

He said when the war commenced, the republican party, (and he also), were in favor of prosecuting it to put down the rebellion, and to execute the laws of the United States, and that they were at that time opposed to converting it into a crusade against slavery. That God in his providence had ordered it otherwise. That God would convert the war into a crusade against slavery. That God has been educating the people during the last sixteen months, up to the proper standard of intelligence and regard for right and justice, necessary to convert the war into a crusade against slavery, and to nerve the officers of the government up to the proper degree of energy, to declare universal emancipation, and let the bondmen go free.

He regarded some of the recent acts of congress as evidences of the teachings of God.

He thought the president should issue a proclamation of emancipation, declaring all the slaves in the United States free, and providing for the compensation of loyal masters. (It may be asked, what power has the president either to emancipate slaves, or compensate the owners for them)?

The Reverend gentleman thought the immediate emancipation of all the slaves of the country was required by God, as a matter of right and justice; and that this war was brought upon us for our national sins, and as a means of bringing about that end.

He thought that general emancipation must be declared, and the bondmen set free, or the nation must inevitably perish.

He was an hour and a quarter in the delivery of the sermon, three quarters of which was of a political and anti-slavery character. We have endeavored to give his ideas and words, on a few points, as near as it is possible to report them in a condensed form.

He seemed to think all that is necessary to set the slaves free, is the proclamation of the president, or an act of congress, declaring them emancipated; that the news would spread to every state, county, and plantation in a few days; and that every bondman would learn it, and immediately walk forth in the consciousness and full exercise of his liberty; that the power of the master over the slave would be paralized; that the laws and government, the vast armies and military forces of the confederate states, would become powerless; that the bondman would walk forth as a free man and join the federal armies; and that with their aid, the rebellion would be crushed at once.

If the sermon was a fair specimen of political preaching, we think the clergy may better let politics alone. We are not prepared to believe that they are either inspired or taught by the Deity upon such subjects. We think that however learned, pious, and sincere they may be, they are not authorized to speak as the ministers of God, and in his name, to teach the people in matters of politics and government. Their proper sphere is to preach the gospel—to preach upon moral and religious subjects, and to save souls—not to save governments—not to dictate national policies, and not to direct political or military operations. If they step aside from their proper clerical duties, to preach politics under the mistaken belief that they are taught of God, we fear they will mislead more than they will enlighten the people.

Have Wm. Lloyd Garrison, Wendell Phillips, Charles Sumner, Gerrit Smith, John Brown, and others of that class, been instructed of God, upon the political questions connected with slavery, agitated by them? Are we to look to the Boston Liberator, and other abolition papers, and to the resolutions and proceedings of abolition meetings and conventions, to learn the modern teachings of the Deity?

In this age of Mormonism, Mahometanism, Shakerism, Four-

rierism, Abolitionism, Spiritualism, and numerous other fanatical isms, nothing is too improbable, or too absurd, to be attributed to the inspirations of God. Whither are we drifting?

The government has been distracted in the prosecution of the war, by divisions of opinion, by divided counsels, by the want of a uniform and proper policy and consistent action. There have been great divisions of opinion in congress, in the cabinet, between the president and his advisers, and among military men, as well as among newspapers and among the people. What is now wanted, is a sound, constitutional, and consistent policy, on which all the loyal people of the country, except a few fanatics, can unite. Harmonious action is necessary to a vigorous prosecution of the war; and that can never be secured by the adoption of extreme and radical measures.

If the president should adopt such a policy as the Reverend gentleman advocates, which has been pressed upon him by the abolitionists during the past year, we should despair for the Union and the Republic. It would divide the people of the north and tend to unite all the people of the slave states against the action of the federal government, and nerve them to fight with desperation, under the belief that they were a persecuted people, and were fighting for self-preservation. It would probably prolong the war until England and France would interfere in their favor, under the pretence that humanity demands it, to put an end to the shedding of blood, and to save the south from devastation.

The war should be prosecuted vigorously, and it should be done in accordance with the modern usages and laws of nations, and for legitimate and constitutional purposes. On no other basis can our people be united, and the Union restored.

Sec. 10. The fanaticism and disunion sentiments of the abolitionists.

To give my readers a view of the fanatical spirit, and of the revolutionary and dangerous tendencies of abolitionism, and to show that its success and domination are not consistent with the peace of the country, the restoration of the Union, nor the permanency of the federal government, I present the following extracts from the Liberator, the organ of the abolitionists, in Massachusetts, published in March, 1863, viz:

No union with slaveholders—the "covenant with death."

Twenty years have elapsed since we submitted to an anti-slavery meeting in Faneuil Hall the following resolutions: "*Resolved, That the constitution of the United States is a covenant with death and an agreement with hell, which ought to be immediately annulled.*" Except the enunciation of the doctrine of immediate and universal emancipation, no utterance ever so

startled the southern slave oligarchy in their fancied security, or so excited to ungovernable rage and fury their guilty accomplices at the north, as did that bold arraignment of an idolized parchment. It was instantly caught up and circulated by every pro-slavery press in the country, and commented upon with hot indignation as most treasonable and blasphemous language; and upon our naked head innumerable vials of wrath were emptied, without any mixture of mercy. Every time we repeated it, the body politic was thrown into violent paroxysms; unearthly howlings as from the bottomless pit were heard; mobocratic outbreaks followed, to suppress freedom of speech; and henceforward, till nearly the period of secession, Union-saving meetings, instigated and peremptorily insisted upon by the terror-stricken lords of the lash, were held in every direction, under the wealthiest, most respectable and most potential auspices—embracing all parties, sects, avocations and interests—burning idolatrous incense afresh, giving renewed pledges of eternal fealty, repudiating abolitionism as a deadly taint and a fearful abomination, and defiantly proclaiming, "The Union must and shall be preserved." * * * Where, now, is the old Union? And did not the breaking thereof "come suddenly, at an instant?"

What is southern slavery but "death and hell?"—death to mind and conscience, to moral perception and genuine religious principle, to human relationship and God-given rights and prerogatives, to liberty and equality, to justice and humanity: hell alike to the oppressor and the oppressed—lurid with its flames, and full of torment!

In what manner was the constitution of the United States "a covenant with death, and an agreement with hell?" By its pro-slavery concessions and guarantees in regard to slave representation in congress, the continuance of the foreign slave trade, the rendition of fugitive slaves, and the suppression of slave insurrections. Let John Quincy Adams testify:

[Here follow sundry quotations going to prove that the constitution protects slavery in southern states.]

These statements as to the pro-slavery features and purposes of the constitution have been indorsed, and carried out to the letter, by the government and people, ever since its adoption; and if they fail to substantiate our accusation against that instrument, then there never was, and never can be, "a covenant with death, and an agreement with hell." Under it, a slave representation has been uniformly allowed in congress; fugitive slaves have been hunted and recaptured in every state in the Union; the foreign slave trade was carried on for twenty years, under the national flag; and slave insurrections have been quelled by the strong hand of the national government. In pronouncing it "both morally and politically vicious," Mr. Adams admitted its organic corruption and iniquity; and we simply reiterated his own fatal declarations. *No pressure of peril, however severe or imminent, could justify the adoption and enforcement of such a constitution.* "The deadly venom of slavery" having been "infused into it" at its formation, it ought to have been rejected with horror by the nation. But no regard was paid to the rights of the despised colored race—*the awful deed* was ratified, and in some instances "with trembling hands and averted faces"—and now the fitting punishment and end are seen in the bloody and perfidious rebellion on the part of that slaveholding section of the country, to propitiate which the unholy compact was made in the form and manner designated! Thank God, that he gave us the strength and courage to be the first to brand that polluted constitution as it deserved, and to declare that when judgment should be laid to the line, and righteousness to the plummet, *the hail would sweep away the refuge of lies—the covenant of death be annulled—and the agreement with hell would not stand!*

Sec. 11. Policy and objects of the abolitionists.

The policy and leading objects of the abolitionists are indicated in the last section. They are to form and maintain associations, and a political party, to discuss the subject of slavery in public meetings, conventions, addresses, newspapers, political and religious tracts, and also in churches, in congress, and the state legislatures—to teach the people of the United States—the non-slaveholders as well as the slaveholders, how wicked and sinful it is to hold slaves—to teach them their moral, religious, and political duties upon the subject; and finally, to force their views upon the southern people, by the action of the federal government.

They denounced the constitution of the United States as an abomination, as if it were the cause of slavery in our country—denounced its support and maintenance as wicked and sinful, and encouraged members of congress and of the state legislatures, and all public officers, to disregard it, to violate their official oaths to support it, and to set it, and the fugitive slave law, at defiance—to trample them under foot, and to pass laws to defeat their operation. Their objects and purposes and the tendencies of their action is revolutionary—to rule the whole country, and to abolish slavery, or to cause a dissolution of the Union, and the formation of two or more confederacies, so that they may govern one of them. Such a result would duplicate the number of high offices, and furnish many tempting prizes to gratify the ambition of the radical leaders.

The southern people long since determined not to be taught by the abolitionists. They feel competent to determine their own rights and duties, moral and religious, as well as political; and they resist the action of the abolitionists as an impertinent intermeddling in their business and concerns; in which they think the northern people have no more right to interfere, than they have to intermeddle with the religious principles, the manners and morals, of the Turks, the Russians, or the Austrians. They claim to stand upon the principle of non-intervention—the non-interference of one people with the policy, the domestic institutions, and the government of another. International law, the freedom and independence of nations, religious liberty, the Protestant religion and our

federal government, are all based on that great and important principle; which constitutes the main corner stone of our religious and political institutions. They object to the policy and action of the abolitionists as inconsistent with that great principle; and it is difficult, if not impossible, to reconcile the purposes, the policy, or the action of the abolitionists, with any sound principles of government.

The policy and purposes of a party must be known by its leaders, and by their declarations and action; as they are not always avowed in their resolutions and platforms. Wendell Phillips is the most distinguished orator of the abolitionists. He has declared in public lectures during the past year, that he had been laboring sixteen years to take the free states out of the Union. The policy and purpose of many of the leading abolitionists have been to dissolve the Union, and to make a confederacy of a portion of the states if they could not rule the whole Union; and the purposes of the southern conspirators have been of a similar character. To give my readers a view of Mr. Phillips, and the measures advocated by him, the following has been taken from the Ann Arbor Journal, of April 16th, 1862.

WENDELL PHILLIPS AND HIS LECTURES.

Wendell Phillips, of Massachusetts, lectured before the Students' Lecture Association, at the Congregational Church in this city, on Friday evening, the 11th instant—subject, "The War, and the way out of it." He had a large and attentive audience, drawn together by curiosity to hear the distinguished lecturer—but not sufficiently abolitionized to enable him to excite much enthusiasm, by his remarks.

Mr. Phillips is a highly educated, interesting, and elegant man, of fine and commanding personal appearance, active, sprightly, and fruitful mind, a finely modulated, clear and smooth voice, an insinuating and subtle address, and great oratorical talents. His words and sentences flow on like a deep and smoothly flowing stream, though his ideas and his logic are sometimes as incoherent as those of a monomaniac. He is now the most influential leader of the Massachusetts Anti-slavery Society, as Charles Sumner is the political leader of the abolition portion of the Massachusetts republicans.

Mr. Phillips has become a traveling lecturer, to propagate abolition sentiments and principles, to enlighten the administration and the American people in relation to their duties, the causes of

the war, and the way out of it; and for that purpose he has visited and lectured in New York, Washington, Cincinnati, Chicago, and other northern cities. His lecture here occupied about an hour and a half. His manner was very fine, and his oratory beautiful, but his logic was not Websterian. His statements, remarks, and illustrations were striking and interesting, but many of his conclusions were not natural nor logical sequences from his premises. His address may be regarded as a hotchpot of incongruities—of beauties and absurdities—of truths and fallacies—of harmonies and discords—of striking facts and plausible sophisms—of logical sequences and strange incoherences—such as never came from a sound mind.

A few months since, he declared publicly that he had been laboring fifteen years to dissolve the Union; to separate the free from the slave states. He now declares that he is in favor of the Union; but he is, in fact, as much a disunionist, and an enemy to the Union, as ever—for the reason, that he is in favor of the Union only on impossible conditions; on the condition of the abolition of slavery in the states by congress, by means of a bold usurpation of power, which they have not military strength to carry into effect, if they were to attempt it: and on the further condition, that the people of the United States, and the southern people in particular, shall be subjected to the tutelage of the anti-slavery societies and lecturers of the northern states, to be instructed and educated by them in Yankee ideas and what he deems the true principles of government, so as to produce harmony of opinion, even between Massachusetts and South Carolina. This is the spirit of his incoherent and irrational ideas in relation to the Union.

He professed to show the way out of the war, but in the course of his lecture he said that the people of the rebel states number about eight millions of white inhabitants, of Anglo-Saxon descent, like ourselves; that it would be impossible for the federal government to conquer them; and that the war would probably last during the lives of the present and the next generation of men, (more than fifty years.)

The only measure proposed by him to get out of the war, (or to prolong it, as we think, for fifty years more), was to abolish slavery in all the states, sweep it out of existence to the Gulf of Mexico, by act of congress, (or rather by a vain attempt to do so, by a bold usurpation of power, under the pretence that necessity will justify and authorize it under the war-power); to force Yankee ideas, and Yankee civilization, upon the whole of the southern states, both bond and free; to compel them to receive abolition lecturers and teachers, anti-slavery tracts and newspapers, and all the methods and means of anti-slavery instruction and agitation; to pray God in his wise providence to remove from this world such obstinate and wicked slave-holders as resist such humane and philanthropic

measures, and to employ live Yankees, zealous abolitionists, anti-slavery powder and ball, grape and canister, bombs and gibbets, to execute his judgments, and carry his providences into effect during the next fifty years of this war. These are not the exact words of Mr. Phillips; but such we think were the outlines of his policy, and such would be its effects.

He compared the people of Massachusetts and South Carolina to mad dogs, fighting; and he proposed to harmonize them. How? By emancipating their slaves, educating the slaves and the poor whites, and as we suppose, exterminating the slave-holders during a fifty years' war. How consistent his logic! and what admirable harmony would result from such measures!

He represented the people of the slave states as in favor of slavery; those of the border slave states in favor of the Union with slavery; and those of the southern slave states as in favor of slavery and against the Union, and determined on maintaining a a southern confederacy. The old maxim is to divide and conquer; to form alliances, to increase your friends and to divide your enemies, in order to weaken and conquer them; but his policy is, to divide our friends and increase the number of our enemies—by an attempt to abolish slavery by force—by a bold usurpation of dominion over the slave states, and by military power—which would inevitably drive all the border states to make common cause with the rebels, for the protection of their institutions.

Again, he represented slavery as the cause of the rebellion; that the rebels were universally in favor of slavery, and made it the corner stone of the southern confederacy, and yet he said Jeff. Davis would soon be so hard pushed, that he would proclaim liberty to the slaves as a matter of policy, if the federal government does not, and would arm them to fight the federal armies. Does he not know that the slaves work on the plantations for their masters as patiently and submissively as their horses and mules do; that they support the families of their masters, and furnish the means also of prosecuting the war; and thereby enable nearly one half the able bodied whites to join their armies? Does he not know that Jeff. Davis could add nothing to the military strength of the south by emancipating and arming such an ignorant multitude, but on the contrary, would greatly weaken it, by rendering the service of the slaves almost valueless?

Such is the admirable logic of Mr. Phillips! All his views tend to a long war, and to a final dissolution of the Union. He and all that school of philanthropists, seem to be entirely ignorant of the effect of climate on the constitution, nature and character of man. They leave the effects of climate out of the account, and base their reasoning on the false assumption, that man is the same in all climates and all countries, except so far as his intellect is developed and expanded, and his moral nature improved by educa-

tion and habit. They do not seem to know, that climate alone, changes the constitution, and all the proportions and balances, as well as the texture of the vital and cerebral organs on which his intellectual faculties, and all his moral and physical wants, propensities, and passions depend; which changes his whole moral and intellectual character. They do not seem to know, that it is impossible for any method of training, or system of education, to assimilate the South Carolinians and the people of the gulf states, to the people of New England. They do not seem to know, that when New England Puritans are transported to the gulf states, or to any hot climate, their descendants soon loose all their Puritanical instincts and characteristics, and become assimilated, in nature as well as in intellect and character, to the people of the climate in which they live. Hence all their reasoning is based on false assumptions.

Many of Mr. Phillips' views and purposes are impracticable and entirely inconsistent with the permanence of our national Union; but his disunion sentiments are varnished and seasoned with professions of universal philanthropy and justice, of sympathy for the slave, and a desire to educate and elevate him in the scale of being, to promote and advance the cause of civilization; and also to educate the whole people of the southern states in the true methods and principles of Puritan civilization—so that when the present generation shall pass away, there may be entire unity of opinion and practice on the subject of freedom and slavery, education and industry, morals and government, and state, as well as national policy, throughout the Union, from the lakes to the gulf of Mexico, and from the Atlantic to the Pacific ocean. A vain hope, inconsistent with the whole history of man, for four thousand years.

By reason of their learning and sophistry; their active and fruitful minds, and subtle reasoning powers; their accomplished manners, commanding personal appearance and eloquence; their high moral character, great zeal, perseverance and fanaticism; and their influential positions, one at the head of the Anti-Slavery Society, and the other the leader of the abolition wing of the republican party of Massachusetts; Wendell Phillips and Charles Sumner may be regarded as the most dangerous men of the free states.

We feel it our duty as public journalists and friends of our national Union, to put our readers on their guard against the influence of the insidious poison infused into the public mind by such men. If the republican party is to be instructed and led by such men as Wendell Phillips and Charles Sumner, it will soon be led to ruin, or to a dissolution of the Union.

The following is from the Detroit Free Press:

Wendell Phillips defined how much of a Union man he was, in his lecture at Madison, Wisconsin. He was a Unionist so long as

the southern states were out of the Union. He is reported to have said:

"He had been a disunionist sixteen years, and had been endeavoring to get nineteen states out of the Union, and now that they were out, he could be a Unionist with justice to his own feelings."

SEC. 13. AMERICAN POLITICS AND POLITICIANS.

Unfortunately for our country, the class of men who are aspiring to office, and make politics in some measure a trade, have been rapidly increasing during the last thirty years, and are now four or five times as numerous, in proportion to the population, as they were during the first forty years of our present national government. Our federal and state governments have mostly fallen into the hands of managing and bargaining partizan politicians; and such has become the scramble for office and government contracts, that not only moral qualities and experience, but intellectual acquirements also, seem to be very little regarded; and an active mind, pliable conscience, talking talent, and craft and skill as politicians, seem to be the principal passports to political success.

Previous to the annexation of Texas and the war with Mexico, we had but four classes of politicians—consisting of schemers and screamers, subtle reasoners, and cunning trimmers. Forty years since, we had none, or very few indeed of the screamer class; which has been added within that period, by the modern system of electing presidential electors, state and judicial officers by the people, all by general ticket. That system introduced and has made very general, the practice of partizan state conventions, mass-meetings, and what is usually termed stump speaking, or stump oratory; much of which has finally degenerated to buffoonery.

The agitation of the slavery question has added a fifth class of politicians—consisting of *enthusiastics and fanatics. There are pro-slavery fanatics, or slavery propagandists, and anti-slavery fanatics, or abolitionists.* This fifth class of politicians did not assume any importance until the year 1844, when they defeated the election of Henry Clay to the presidency. They finally destroyed the whig party and divided the democratic party, and have been a very great disturbing element in American politics, ever since the war with Mexico.

The principal stock in trade of the screamers consists of a good supply of anecdotes, partizan dogmas and sophisms, and a small show of reasoning, seasoned with coarse epithets and sarcasms, and vulgar witticisms. Those of the fanatical class, at the north, also howl against slavery, and shriek for freedom; while those at the south, plant themselves upon slavery as the main corner stone of the American institutions, and denounce the abolitionists as the only disturbers of the public peace.

The system of state and national partizan nominating convention has grown up and been perfected during the last forty years; the first national conventions for nominating candidates for president and vice-president of the United States having been held in the years 1831 and 1832.

The convention system has greatly increased the number of politicians, and increased also the *penchant* and scramble for office. There is often as much anxiety and management to obtain a township, ward, or city office, to become trustee of a school district, or to be appointed a delegate to a national, state, or even a county convention, as there was fifty years since to be elected to congress, or governor of a state. Some aspire to petty offices as modes of personal distinction and popularity; while others seek them, and vainly hope to make them stepping-stones to higher honors. The anxiety, paltry management, and scramble for office, have become truly amazing, and tend to demoralize the people of the United States as much as any other cause.

Partizan machinery, during the last thirty years, has been reduced to such a degree of system, and is worked so perfectly by cunning and skillful politicians, that the government of the country has fallen almost entirely into the hands of men who make politics a trade. The tendency of the system is to lay independent men on the shelf—to disregard experience, acquirements, and qualifications, fitness and character—to make zeal, tact and skill as politicians, the principal passports to official stations. What could be expected from such a system and such a state of things, but that great numbers of Jimmy Schemers, Billy Screamers, fanatics, and Tommy Noodles, would be elected to office, and that we should have so many mere politicians, and so few statesmen, occupying high seats of power? Such are the antecedents which may be

reckoned among the causes of the present civil war. Our politics have gradually degenerated into fanaticism and party scramble for office, and the effects could hardly be otherwise than deplorable.

This subject will be further discussed in the following sections.

SEC. 14. THE ELECTION, BY THE PEOPLE, OF STATE AND JUDICIAL OFFICERS, AND OF PRESIDENTIAL ELECTORS BY GENERAL TICKET.

In all the early American constitutions provision was made for the appointment of judges, by the governor, by and with the advice and consent of the senate or council, or for their election by the legislature in joint convention; and for the appointment or election of state officers, other than the governor, in the same manner; and in many of the states, the governor also was elected by the legislature. The second constitution of the state of Mississippi, adopted in 1832, I think was the first American constitution which provided for the election of state officers and judges of the supreme and superior courts by the people. The example of Mississippi has been since followed by New York, Ohio, Michigan, and several other states, in the revision of their constitutions.

That system is inherently vicious, so far as it regards both the executive and judicial branches of the government. It provides for the election of seven or eight or more heads of executive departments, but no governor or chief executive officer, in the proper sense of the words, and no cabinet nor executive council. The governor is only the head of the military department of the state, and has no control over, and no business with, the other executive departments. The secretary of state, state treasurer, auditor general, attorney general, and other state officers, being elected in the same manner as the governor, are all independent of him, and independent of each other—and each determines the policy of his own department, and discharges its duties in his own way, and without any legal obligation to consult the governor, or any of the other state officers. The effect of the system is, that there are no cabinet or executive councils of the governor and heads of department, to determine the executive policy of the state; no uniform policy is prescribed or acted upon; the policy and action of each department is substantially determined by one mind; and there is no unity or concert of action between the several depart-

ments—which often leads to confusion and conflict. It is impossible to conduct the affairs of a state, wisely, on such a system, and the tendency of it is to excite dissention and distrust, and to weaken the confidence of the people in the administration of the government

The system of electing judges by the people makes them so directly dependent upon popular favor and upon majorities, and renders it so easy for a few persons combining, from motives of disaffection or favoritism, to throw the majority on one side or the other—that a rigid and upright administration of justice tends to make a judge unpopular with the debtor interest, and with so large a class of gamblers and gamesters, rowdies and reckless politicians, as to hazard his future election. It has the same effect also upon sheriffs, constables, and police officers, elected by the people, and tends strongly to relax and destroy the administration of justice, to give a loose rein to riots and mobs, vice and crime, and to break down law and order.

The 2d article of the constitution of the United States provides that each state shall have a number of presidential electors equal to the whole number of senators and representatives to which the state may be entitled in congress—to be appointed in such manner as the legislature thereof may direct. Congress may, and have determined the time of choosing the electors, and the day on which they shall give their votes; but has no power to prescribe the mode of their election. Several differ[illegible] modes have been adopted in the several states, at different periods, for the election or appointment of presidential electors.

1st. By the state legislatures, either by a concurrent vote of the two houses, or by a joint convention thereof.

2d. By the people in districts.

3d. By the people, by general ticket, each one casting a vote for the whole number of presidential electors, to which the state may be entitled.

At the first election of president, in 1788, the choice of electors in most of the states, was made by the state legislatures; but in Virginia, they were chosen by the people, in single districts. New York did not vote, and North Carolina and Rhode Island not

having ratified the constitution, were independent states out of the Union.

In 1796, the presidential electors were chosen by the legislature in the states of New York, Connecticut, and South Carolina; by the people, by general ticket, in Pennsylvania; and by the people, by districts, in the other states.

The choice of electors, by districts, gives the fairest expression of public opinion in a state, and the different parts thereof; but as it often divides the vote of a state between two or more candidates, it is not so favorable to the views and wishes of managing politicians, who are in the majority, and desire to give the whole vote of a state to their favorite candidate, and allow the minority no vote at all in the elective college. Such considerations of ambitious leaders, in the then leading states of Massachusetts and Virginia, induced a change, in the year 1800, in the mode of electing presidential electors, and an abandonment of the district system. In Virginia, the choice was given to the people by general ticket; and in Massachusetts, it was made by the legislature; but the latter state adopted the general ticket system of elections by the people, four years afterwards. In New York, Connecticut, Pennsylvania, and South Carolina, the electors, in 1800, were chosen by the state legislatures, and in most of the other states, by the people, in districts.

At the presidential election in 1808, the electors were chosen by the people, by districts, in the states of Maryland and North Carolina; by general ticket in Virginia, Pennsylvania, and some of the smaller states, and by the legislatures in New York, Massachusetts, Connecticut, Vermont, and South Carolina.

New York persisted in choosing electors by the legislature until after the presidential election of 1824, when, by an act of the legislature, the people of each congressional district were allowed to elect, in November, 1828, one elector of president, and the persons so elected, when assembled, to cast their votes for president and vice-president, were authorized to choose two others, to represent the two senators in the electoral college. The result was that the people chose eighteen electors in favor of Gen. Jackson, for president, and sixteen in favor of Mr. Adams—the college of electors chose two others who cast their votes for Gen. Jackson, so that

Jackson received twenty of the electoral votes of the state, and Adams sixteen.

That was a fair and just result, as near in accordance with the numbers and preferences of the people of the two great political parties of the state as it was possible to attain; but inasmuch as nearly all the other states voted by general ticket, the inequality operated unfairly, and the result was not satisfactory to the politicians of the majority party; and therefore the system was immediately changed, and the general ticket system adopted. At each presidential election since 1832, South Carolina has continued to choose electors by the legislature, and all the other states by general ticket, by the people.

Uniformity has been practically attained, by that anomalous system, which substantially disfranchises the minority of the people of each state, and transfers their vote for electors to the majority, and thereby greatly increases the political power and influence of the majority—increases the objects of strife at each election, and increases the intensity and violence of party spirit. It tends also to increase the power of party organizations, the allegiance of individuals to party nominations, and to make men blind to the corruptions of party, and to the best interests of the country.

Sec. 15. Political Conventions, Creeds and Platforms.

The first state convention ever held in the state of New York, to nominate candidates for governor and lieutenant governor, assembled at Utica, in September, 1824, and nominated Dewit Clinton, for governor, and Gen. Jas. Tallmadge, for lieutenant governor. Col. Samuel Young had been previously nominated for governor by a caucus of the democratic members of the legislature, in accordance with the previous usage of both parties. Since that time, the system of nominating candidates for governor, presidential electors, and other officers, by state conventions, has been introduced and established in all, or nearly all the states.

In the years 1831 and 1832, the first national conventions were held in the United States to nominate candidates for president and vice-president of the United States; by the anti-masons, in September, 1831; by the national republicans, in December, 1831;

and by the democrats, in May, 1832. Previous to that period, candidates for president and vice-president were united on by the people of each party in the several states, by common consent, or they were designated by a caucus of members of the legislature or congress, or they were first determined upon by the presidential electors, on consultation, after they assembled to cast their votes. The latter mode, which allowed a discretion to the electors, is strictly in accordance with the spirit of the constitution, and the designs of its framers.

No political creed or platform of principles was adopted by either of the national nominating conventions held in 1831 and 1832. Similar conventions have been held by each of the great political parties of the country, every four years, since 1832, and several national conventions have been held by the abolitionists.

A whig national convention, met at Harrisburg, in Pennsylvania, in December, 1839, and nominated Gen. Harrison, of Ohio, for president, and John Tyler, of Virginia, for vice-president, but adopted no political platform or party creed.

The democratic national convention, held at Baltimore, in May, 1840, nominated Mr. Van Buren for president, and adopted a platform, consisting of nine resolutions. The democratic national nominating conventions of 1844, 1848, 1852, 1856, and 1860, adopted, substantially, the same political platform, with some additions, from time to time. They divided and formed two conventions, and adopted two sets of resolutions in 1860.

The whig national convention, of 1844, which nominated Henry Clay for president, and Theodore Frelinghuysen, for vice-president, adopted a single resolution, comprising a short political creed, in very general terms. The whig national convention of 1848, which nominated Gen. Taylor for president, and Millard Fillmore for vice-president, adopted no political platform or party creed.

The whig national convention, of 1852, which nominated Gen. Scott for president, and Wm. A. Graham, of North Carolina, for vice-president, adopted a very full and complete platform of principles.

The republican national convention, of 1856, which nominated John C. Fremont for president, and Wm. L. Dayton for vice-pres-

ident, adopted a platform of principles; and the republican national convention, at Chicago, in 1860, which nominated Abraham Lincoln for president, and Hannibal Hamlin for vice-president, also adopted a very full platform of principles, consisting of seventeen resolutions; the eighth of which is not consistent with the history of the country, nor with the constitution of the United States.

The abolitionists held a convention, at Warsaw, in Western New York, in 1839, and nominated James G. Birney for president, and Francis J. Lemoyne for vice-president. The same party, calling themselves the liberty party, held at Buffalo, in August, 1843, what they called a national convention, consisting of delegates from nearly all the free states, at which they nominated James G. Birney, of Michigan, for president, and Thomas Morris, of Ohio, for vice-president. They also adopted a platform—consisting of a preamble and twenty-one resolutions—mostly confined to the subject of liberty and slavery, and denouncing and declaring void, that clause of the constitution of the United States, in relation to fugitive slaves.

The abolition party, in conjunction with the free democrats, held a convention at Buffalo, in August, 1848, in which all the free states and portions of Virginia, Maryland, and Delaware were represented. That convention nominated Martin Van Buren for president, and Charles F. Adams for vice-president, and adopted a platform, including an affirmance of the expediency of some measures, as well as principles; which is known as the Buffalo platform. The same party held a similar convention, at Pittsburg, Pennsylvania, in August, 1852, nominated John P. Hale, of New Hampshire, for president, and George W. Julian, of Indiana, for vice-president, and adopted a long political platform, very radical in its character. Since the repeal of the Missouri compromise, in 1854, the abolitionists have been merged in the republican party, with that portion of the whig and democratic parties, which was the most violently opposed to the extension of slavery into the territories.

The national council of the American party, (familiarly known as KNOW NOTHINGS), held a meeting and a national convention at Philadelphia, in February, 1856, adopted a platform, and nomin-

ated Millard Fillmore for president, and Andrew J. Donnelson for vice-president of the United States.

It thus appears, that the partizan machinery of our country has been greatly changed during the last forty years; that a new system of political management, by national conventions and partizan platforms has been adopted; and what have been its fruits? The influences and efforts of the system of partizan conventions and caucuses, have been heretofore referred to (in section 13, p. 238). Their tendencies are spoken of in the "New American Cyclopedia," as follows:

"The caucus system is often converted into a contrivance for the distribution of offices among men more distinguished for intrigue than for talent; who, by combination and mutual support, and by serving each other's turns, are often raised to offices, and sometimes very high ones, for which, apart from a caucus nomination, they would hardly have been thought of as candidates."

Sec. 16. Tendencies and evils of political platforms.

The platforms adopted by nominating conventions usually embrace an affirmation of political principles, of the limited constitutional powers of the federal government, and of some leading measures and matters of national policy; all of which involve questions of great difficulty, and often of great delicacy, on account of local interests and prejudices. Reason and sound policy seem to require that all such questions should be settled by the action and concurrence of both houses of congress, after full discussion and deliberation, consultation with the president and other executive officers, and the consideration of all the information which the executive departments of the government can furnish. They should be determined by senators and members of congress from all the states, representing the views and interests of all political parties and classes of people in the United States. When questions have been so settled, fairly, not only the constitution and the common obligations of loyalty to the government, but also the principles of propriety, require that every citizen should so far acquiesce in the decision and in the policy of the government, as to yield to the supremacy of the law, until it shall have been changed by constitutional and proper means.

How differently political platforms are formed and adopted by

partizan conventions! They are usually hastily prepared by a committee, reported to the convention, and adopted without much if any discussion, examination, or consideration. They are adopted by delegates from one political party, and are intended to promote partizan success, rather than the general welfare of the whole country. Hence they generally appeal to local and partizan passions and prejudices, and to the cupidity, the interests, and the ambition of particular classes of men.

They generally comprize the annunciation of a few general truths, or assumed truths, couched in general terms, and having so vague and indefinite an application to the condition and wants of the country, as to admit of different constructions by different minds. They seldom contain a full annunciation of the principles of a party and of the programme of the intended action of the party; but so much only as the leaders deem it politic to proclaim. They are often cunningly drawn, and intended to mask the real objects and designs of the party leaders, and the tendencies of their measures. In proportion as the leaders of the north or the south obtain the ascendancy in such conventions, the platform is shaped to favor the views of the people of that particular section. What confidence should be placed in political platforms adopted in such a mode, and for such purposes?

The tendency of conventions, platforms, and party machinery, is to draw and maintain the lines of distinction between parties as rigidly as possible—to increase the intensity of party spirit—to secure fealty and devotion to party, and to induce voters to support the nominees of a convention, as the representatives of the principles of the party, without regard to the qualifications, character, or fitness of the candidates nominated.

Political platforms generally embody much truth; but it is truth more or less exaggerated and blended with error. They have led to perversions of the constitution by extreme parties, both north and south; misled great numbers of the people; induced the belief among many, that the party platform is more sacred than the constitution itself; and finally led to a disregard of the constitution and the laws of the land.

The tendency of the system is to destroy all independence of mind in public men—to compel them to surrender their own

opinions and judgments, in all respects to the party creed and to the policy of the party leaders. For fear of losing caste in the party, they often do what their own judgments condemn as wrong.

If the choice, of presidential electors, by the people, in single districts, had been originally provided for by the constitution, and in case of no election by the electors, the choice had been devolved upon the two houses of congress, meeting in joint convention, each member being allowed one vote, there would have been no occasion for nominating conventions, nor for party platforms; and if the practice of the government had continued as it was during the first twenty years after the adoption of the constitution, and men had been elected to office on account of their qualifications and character, been allowed freedom of action upon all public questions, without being trammeled by instructions and party platforms, the people of all sections of the country would have had more confidence in the government, and been more inclined to submit to the administration in power, and the laws of the land. The people would have been governed more by reason, and less by party spirit and passion, than they are now. But so long as the present system continues, and one party resorts to caucuses or nominating conventions and the adoption of political platforms, other parties will pursue the same policy.

SEC. 17. TENDENCIES AND EFFECTS OF THE POLICY AND ACTION OF THE ABOLITIONISTS.

Soon after the formation of abolition societies in the middle and north-western states, the abolitionists organized a system to aid the escape and concealment of fugitive slaves, familiarly known as the "underground railroad." They also made great efforts to operate upon public opinion, by meetings, conventions, addresses, traveling lecturers, newspapers, and anti-slavery tracts. They also sent numerous petitions to congress, praying the abolition of slavery in the District of Columbia, and in the territories of the United States. The convention held at Warsaw, in November, 1839, which nominated James G. Birney for president, adopted the following resolution:

"*Resolved*, That, in our judgment, every consideration of duty and expediency which ought to control the action of Christian freemen requires of the Abolitionists of the United States to organize a distinct and independent political party, embracing all the necessary means for nominating candidates for office and sustaining them by public suffrage."

The action of the Abolitionists, and the agitation of the slavery question in nearly all the free states and in congress, caused great alarm at the south; and through the influence of southern men, the matter was brought before the democratic national convention of May, 1840, which nominated Mr. Van Buren for the presidency. That convention acted upon the subject, and adopted the following resolution, which is the seventh in the series, forming the democratic platform of that year, viz:

"*Resolved*, That congress has no power, under the constitution, to interfere with or control the domestic institutions of the several states; and that such states are the sole and proper judges of everything pertaining to their own affairs, not prohibited by the constitution; that all efforts, by abolitionists or others, made to induce congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences, and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend to our political institutions."

The national convention of the liberty party, held in August, 1843, which nominated Mr. Birney for the presidency a second time, adopted a platform, including the following preamble and resolutions:

"*Whereas*, The constitution of these United States is a series of agreements, covenants, or contracts between the people of the United States, each with all and all with each; and

"*Whereas*, It is a principle of universal morality, that the moral laws of the Creator are paramount to all human laws; or, in the language of an Apostle, 'that we ought to obey God rather than men;' and

"*Whereas*, The principle of common law—that any contract, covenant, or agreement, to do an act derogatory to natural right, is vitiated and annulled by its inherent immorality—has been recognized by one of the justices of the supreme court of the United States, who in a recent case expressly holds that '*any* contract that rests upon such a basis is *void*;' and

"*Whereas*, The third clause of the second section of the fourth article of the constitution of the United States, when construed as providing for the surrender of a fugitive slave, *does* 'rest upon such a basis,' in that it is a contract to rob a man of a natural right—namely, his natural right to his own liberty; and is, therefore, absolutely *void*. Therefore,

"*Resolved*, That we hereby give it to be distinctly understood by this nation and the world, that, as abolitionists, considering that the strength of our cause lies in its righteousness, and our hope for it in our conformity to the laws of God, and our respect for the rights of man, we owe it to the Sovereign Ruler of the universe, as a proof of our allegiance to Him, in all our civil relations and offices, whether as private citizens or as public func-

tionaries sworn to support the constitution of the United States, to regard and to treat the third clause of the fourth article of that instrument, whenever applied to the case of a fugitive slave, as utterly null and void, and consequently as forming no part of the constitution of the United States, whenever we are called upon or sworn to support it."

"*Resolved*, That to preserve the peace of the citizens, and secure the blessings of freedom, the legislature of each of the free states ought to keep in force suitable statutes rendering it penal for any of its inhabitants to transport, or aid in transporting from such state, any person sought to be thus transported, merely because subject to the slave laws of any other state; this remnant of independence being accorded to the free states, by the decision of the supreme court, in the case of Prigg vs. the State of Pennsylvania."

The foregoing preamble and resolutions are believed to be the first annunciation in so august a manner, of the doctrine that public officers are justified in violating their official oaths to support the constitution of the United States. The doctrine was immediately denounced at the south as very alarming. It was denominated the "HIGHER LAW DOCTRINE," and was very extensively and effectively used from that time until the commencement of the rebellion, to excite the minds of the southern people.

The last resolution above quoted, was probably the first suggestion, in a public manner, of the "LIBERTY LAWS," so called; which have been passed by the legislatures of many of the northern states. Those laws have not amounted to much in practice; but they have been most efficient means in the hands of southern politicians and the conspirators, of exciting the southern mind, and preparing the people for the rebellion.

Whatever we may think of slavery at the north—it is a favorite and cherished institution at the south. A large majority of the southern people think it just, right, and proper, and regard it as the foundation of their prosperity and welfare as a people; and hence they are anxious to extend it, for the double purpose of promoting and perpetuating their prosperity, and increasing their political power.

The abolitionists first commenced their agitation of the subject as a moral one, and waged a moral and intellectual warfare against the institution of slavery; but the agitation was soon carried into the Congregational, Baptist, Methodist, and New School Presbyterian churches, and the warfare became religious; and when the liberty party was organized, and candidates nom-

inated for president and vice-president, and other officers, in 1839, it became also a political warfare; and the feeling grew more and more intense on both sides, until after the commencement of the rebellion, and the attack on Fort Sumpter, in April, 1861.

The southern people finding their cherished institution of slavery attacked by the abolitionists, buckled on their armor, and waged a violent political warfare in its defence, and have, for more than twenty years, regarded the abolitionists as their foes and enemies. Self-defence is an instinct of nature, and men are as much inclined to defend their property, and what they regard as their rights, as they are to defend their persons.

This was the commencement of a great conflict between the abolitionists on one side, and the great body of the southern people on the other—which still continues. It is in some of its operations, an irrepressible conflict—because it is based on moral and religious feeling—blended with politics, and some degree of fanaticism, on both sides. After the repeal of the Missouri compromise, and the attempt of the pro-slavery fanatics of the south to force slavery into Kansas, by armed bands of marauders, fraud, and the influence of federal officers, then, and not till then, the great body of the northern people, who were opposed to the extension of slavery, but not inclined to disturb the compromises of the constitution, denounced such measures as violations of public faith. These were the only great conflicts which ever existed between the people of the north and the south, prior to the present rebellion. There has never been any real conflict between free labor and slave labor; and never any competition or strife between the north and the south, arising from the different systems of labor—though at the south there is some competition between free and slave labor, as there is in all matters of industry and business, but nothing which could possibly disturb the harmony of a nation. This conflict between anti-slavery and pro-slavery fanatics is what Mr. Seward mistook for an irrepressible conflict between free labor and slave labor, and between northern and southern institutions. The conflict is not permanent in its nature, and must soon pass away.

It is easy to see, when the history of the conflict and of the country is considered, that it arose out of the action and agitation

of the abolitionists. It would not have amounted to much, and must have died away soon, if it had not been carried into politics, and into congress.

The liberty party did not amount to much in 1840; it got but little more than seven thousand votes in the United States; but in 1844, it got 62,300 votes—gave the electoral vote of the State of New York to Mr. Polk, and defeated the election of Mr. Clay.

The free soil party, in 1848, gave over 291,000 votes to Mr. Van Buren, and defeated the election of Gen. Cass; and the same party gave to Mr. Hale nearly 156,000 votes, in 1852. Gen. Scott was not defeated by the vote of the free soil party; but by the previous agitation of the questions relating to slavery by the abolitionists and free soilers, and by the opposition made by nearly all the whig senators and members of congress from New England, New York, New Jersey, and Ohio, to the compromise measures of Mr. Clay, in 1850. The most of the northern whigs then repudiated their old and distinguished leaders, Henry Clay and Daniel Webster, with a view of strengthening the whig party at the north, by conciliating, and in some measure compromising with the abolitionists.

The democratic senators and members of congress had political sagacity enough to take the opposite tack. They all went in unitedly and zealously for the compromise measures, as the best which public opinion, in the then critical condition of the country, would admit of. Great numbers of southern whigs became disgusted at the disposition of their northern friends to compromise with the abolitionists and at their opposition to the compromise measures, and finding that the democrats, as a party, would protect what they claimed as the rights of the south, and that they could no longer rely upon the northern whigs upon the subject, thousands of old line whigs, in the southern states, went over to the democratic party, and supported Gen. Pierce for president. Such are the causes which carried over from the whig to the democratic party, the states of Delaware, Maryland, North Carolina, Georgia, and Louisiana, defeated the election of Gen. Scott, made the democratic party more powerful than it had ever been before, and destroyed the whig party. It was the conscious strength of the democratic party which induced the repeal of the Missouri compromise, and brought upon the country a multitude of evils.

After the republican party had achieved success, and elected Mr. Lincoln president, and many of the southern leaders had conspired against the government, and brought on a wicked rebellion without any just cause or provocation, the abolitionists, both in and out of congress, by their violent spirit and efforts to pervert the war from its legitimate purposes, and to convert it into a crusade against slavery, have given some plausibility to the false pretences set up by the conspirators, as a justification for the rebellion. Such have been the effects, direct and indirect, of the agitation and political action of the abolitionists.

Sec. 18. YOUNG AMERICA.

The young America spirit in our country, has also been a disturbing element in politics, during the last twenty years. The system of young mens' societies, meetings, and conventions, for political purposes, is of recent origin. The first state convention of the kind was held at Utica, in the state of New York, by the friends of John Quincy Adams, in 1828.

There is no objection to literary societies in colleges and institutions of learning, or to debating clubs or societies any where, composed exclusively of young men, formed and conducted for mutual improvement; but societies, meetings, and conventions for political purposes, are of a very different character, and should be composed of voters of all ages; unless the people are willing to resign to young men, the entire control of the politics and government of the country. It is right and proper for young men to participate in politics, in their proper spheres—acting with their seniors and voters of all ages, under the leadership of men of maturity of mind and experience; but by forming separate organizations, and acting in concert with each other, they often use their association as young ambition's ladder, to climb into power, by pushing aside and superseding men of more maturity of mind, and higher qualifications.

The tendency of the young America spirit has been to disregard the wisdom and comprehensive national views, which age, observation, and experience only can bring, and to elevate to high official stations young men, or men comparatively young for such places—men who have more ambition and zeal than wisdom or

discretion, and more energy than prudence—men who are better qualified for actors in the affairs of government, than for legislators, counselors, or directors—men of buoyant feelings, who see bright prospects ahead, but perceive very few of the difficulties which surround and beset a nation. Young America is fast, but not safe.

It was young America, in the democratic party, that charged Gov. Marcy, Gen. Cass, and other experienced leaders, with being "old fogies," behind the intelligence and spirit of the age; and the same class, among the whigs and republicans, practically discarded Henry Clay, Daniel Webster, Judge McLean, Edward Everett, and nearly all the former leaders of the whig party; and brought forward much younger men, and men of far less wisdom, to fill their places. The enthusiastic spirit and political ambition of young America, have increased the political fanaticism of our country, both at the north and at the south, and contributed largely to push partizan and sectional measures and policies to extremes, and to involve the north and the south in a civil war.

A view of the spirit and tactics of young America is presented in the following article from the Ann Arbor Journal, of June 18th, 1862.

YOUNG MENS' CONVENTION.

We observe that some of our ardent and enterprising young men, who are ambitious to distinguish themselves as politicians, have issued a circular inviting the "republican young men to meet in mass convention, at the Court House, in this city, on Tuesday, June 19th, to organize a young mens' republican club, with branch organizations in each township, to make a thorough and complete canvass of each school district in the county."

They say in the circular, "That the time has arrived for the opening of the campaign of 1862," and that "It is expected of the young men of the county, to bear the brunt of the battle."

It is further announced, "That the Hon. Mr. G., Hon. Mr. C., and others are expected to be present, and address the meeting."

Our old and experienced politicians, and all our middle aged men, who are above thirty-five years of age, may consider themselves laid upon the shelf, as too old and fogyish for active service in the great political battle about to be fought in Washtenaw county; and hence, young America has risen in the fullness of his wisdom and the majesty of his strength, assumed his proper station, and taken the reins of government into his own hands. Young America will plan the campaign, organize and drill the troops, ap-

point the commanding and field officers, as well as all the captains, lieutenants, and other subordinate officers, make all the necessary arrangements, and fight the great battle.

Our middle aged and elderly friends will be removed from all danger, and relieved from all responsibility, trouble, and anxiety upon the subject. All they will have to do, will be to hobble up to the polls in November, and vote the ticket the young mens' republican club may put into their hands!

Having large experience, great bravery and energy, wise plans, and no old fogies to disarrange and disturb their calculations, young America may reasonably expect much harmony and enthusiasm in their ranks, and can look forward to the achievement of a glorious victory. *Nous verrons.*

SEC. 19. FALSE SECURITY AT THE NORTH IMMEDIATELY BEFORE THE REBELLION.

During the winter previous to the attack on Fort Sumpter, the people at the north, and particularly the republicans, were under the influence of many delusions, and reposing on a false security. They regarded the slaves at the south as their friends, as enemies to their masters, and a source of weakness to the slave states. They also imagined the power of the free states much greater than it really is; and greatly underrated the martial spirit and energy of the southern people, the resources and military power of the slave states, and the difficulties of waging war against them successfully, and reducing them to submission to the constitution and government of the United States. To illustrate this part of the subject, the following sections have been taken from editorial articles published in the Ann Arbor Journal, in January, 1861.

SEC. 20. POPULAR DELUSIONS IN RELATION TO WAR, SLAVES, SLAVERY, AND THE ABOLITION OF SLAVERY.

Disunion and war seem inevitable; and hence we should look around us and examine the ground on which we stand. There are some popular delusions among our people upon the subject of war and slavery, and the influences which each has upon the other, that may serve to mislead them. Many seem to think the slave states so weak, by reason of slavery, that they have little power of self-defence; that in case of war, nearly all, or great numbers of their slaves would rise in rebellion against them; that the free states with the power of the federal government and the aid of the slaves, could crush the slave states at once; and that such a war would certainly put an end to slavery, and be productive of great good to the slaves—to the cause of humanity, and to the future progress of our country.

Origin of Slavery, and influence of war upon it, and its abolition.

Are slaves an element of strength or of weakness to a nation in time of war? and does war generally or ever tend to overthrow and abolish slavery, and elevate a slave population to the rank of freemen? These are questions of great magnitude and national importance; and we know of no way to answer and determine them, but by reference to the facts of history.

Slavery existed before the period of authentic history, and has existed in all ages since. It has generally grown out of wars; the captives taken in war having been usually sold as slaves, and held thereafter in perpetual bondage. The ten tribes of Israel were captured and carried into captivity. I am not aware that history furnishes any account of the institution of slavery having been overturned, and slavery abolished in any age or country, by means of war between nations and states. St. Domingo furnishes the only example of its having been overturned by means of insurrection, and domestic or civil war; and a terrible example it was—shocking to the moral sense of mankind. On the contrary, villeinage was abolished in the middle ages in all western and southern Europe, by reason of the spirit of Christianity and the Catholic church; and the same spirit induced the abolition of the African slave trade by the United States and the countries of Europe—the abolition of slavery in our free states and the British dominions, and the recent abolition of serfdom, and the enfranchisement of forty millions of serfs in Russia.

History teaches us that slavery has had its origin in war; that war has made millions of slaves, but has never been the cause of emancipating many; and we must, in future as heretofore, look to the principles of civilization, of humanity and Christianity, to ameliorate the bondage, and finally emancipate the slave as well as the serf.

General character of Slaves.

Slaves, villeins, and serfs of all colors, races, countries, and ages, have been an ignorant, spiritless, timid, cowardly, and pusillanimous people, as a general rule—wanting in independence of thought, and depending almost entirely upon their masters and overseers to think for them, and direct their industry, as well as to supply their wants. They are almost universally unaccustomed to the use of fire-arms and the art of war, destitute of military knowledge and discipline, terror-stricken at the sight or sound of an enemy, and inclined to cling to their masters as their only ark of safety in time of war. Such is the weak and defenceless condition, and such has been the general characteristics of slaves of all colors, countries, and ages of the world. African slaves have much less intellect, spirit, courage, intelligence, and energy of character, than the villeins and serfs of the middle ages and modern Europe, or the white slaves of ancient Greece and Rome.

There are some exceptions to this general rule, even among the slaves of the United States, consisting mostly of persons that have a large share of white blood in their veins; some of them having inherited a high order of natural talent from educated white fathers or grand fathers; and some from a line of white paternal ancestors. Usually it is only the most intellectual, shrewd, courageous, spirited, and energetic among the slaves, that make their escape from bondage; the character and intellectual capacity of the mass of the slaves at the south can not be properly estimated by the fugitive slaves; much less can they be estimated by the free colored persons who have lived many years at the north. We should study, learn, and regard the characteristics of African slaves in the cotton states, as they are, in that hot climate.

Effects of Climate on constitution and character.

Climate has great influence upon the intellectual and moral character, as well as the physical constitution of man. There is perhaps five times as much difference between the Negro and the European races of men, as there is between the African tiger and the northern bear. The principal differences between the latter are produced by climate only; while those of the former are produced by the joint effects of climate, education, modes of living, industry, the useful arts and sciences, religion, laws and government—all operating through ages of time, developing and moulding the brain, (the organ of the mind), and forming the character, by the constant transmission of the constitution of the brain and nervous system, as well as the physical system, from parent to child.

Such a people as inhabit New England and Scotland can not be formed or exist in the torrid zone, nor in any of our gulf states. Such constitutions and characters can not be formed in any hot climate. The ancestors of the present inhabitants of the state of Georgia were mostly from Great Britain and New England; but the effect of that climate has so far changed their constitutions and characters, and given them the mercurial and impulsive temperament of the people of southern France, that they now resemble Frenchmen and Spaniards, more than they do Englishmen, or the people of New England. Climate has been the principal agent in producing this change. Slavery and education have had slight influences in the matter, when compared with the effects of climate.

The Deity has seen fit to dole out intellect very sparingly to a large portion of the human family; and when we act in reference to African slaves, we should regard them as they are—ignorant weak, and dependent beings, with brains and intellectual, as well as physical constitutions, moulded by a hot climate, during thousands of years, combined with the depressing influences of slavery for several generations. In fact, a hot climate has had more influ-

ence, (four times over), than slavery, in producing their moral and mental character and intellectual weakness; for the fact is beyond all doubt, that the slaves at the south, and more particularly of the northern slave states, are greatly superior in intellect as well as intelligence, to the free Negroes of Guinea and the interior of Africa.

These are solemn truths, however unpopular they may be in this latitude, among certain classes of people. We wish to give our readers sound and correct information, rather than to seek popularity; hence we do not hesitate to give them truths which are unwelcome to some. We now speak of the African race, and of slaves as they are, and not of the justice of slavery. On the contrary, holding men in bondage and appropriating the largest share of the fruits of their industry for the benefit of their masters, we believe to be inconsistent with the laws of nature and with the principles of justice, as well as contrary to the principles of Christianity; and yet we do not believe it either safe, proper, or just to the white population, to extend political power and universal suffrage to the African race of the United States, and put them on a level with the European races.

There has never been any sound original thought, any important invention in the arts, any element or principle of science, originated in the torrid zone. Nor have the people of the torrid zone ever originated or developed any law, system of government, institution, scientific, philosophical, moral, social, or religious truth, of any importance to the human family.

They seem to have no philosophical and no organizing talent—no talent for political or military organization, none for uniting, combining and organizing men and societies, and the establishment of laws for their government. Hence the torrid zone can be civilized only by means of laws, institutions, religion, arts, sciences and other elements of civilization, to be transplanted from Europe or North America.

These remarks in relation to the character of the people of the torrid zone, do not apply with full force to those of European descent; and yet a residence for two or three generations in any hot climate, below the thirty-fifth degree of latitude, essentially modifies the character of a people, and makes them more imaginative, passionate, impulsive, vacillating, and disinclined to regular industry; and less stable, industrious, energetic and persevering; and their minds less sound, original, inventive and practical.

Insurrections, Murders, and Civil Wars by Slaves.

Wars and insurrections, as well as laws and government, are the result of organization; of association and combination, and the well organized union of great numbers of persons; if otherwise, they do not amount to much. The negro race seem generally incapable of forming and organizing such associations as are

required to constitute an insurrection of much magnitude. Their great timidity, cowardice and ignorance, tend also to restrain them from attempting to excite, and from joining in insurrections, to obtain their liberty.

Perhaps ten thousand cases of murder have been committed by slaves, of their overseers, masters, and members of their families, mostly in single cases, on plantations, where there has been one substantial insurrection. In fact, we are not aware that any more than one insurrection of slaves, of any considerable extent, has ever occurred in the United States—which was in Virginia, about the year 1832 or 1833, and known as the Nat Turner insurrection. Several other insurrections of a few slaves have occurred, but no other of much magnitude.

Such was the case also in ancient Greece and Rome, in England during the middle ages, and in modern Russia and Austria. Insurrections of slaves of any great magnitude never occurred in any of those countries. Nor did slaves combine together in any of the great civil wars of Rome, England, or other countries of Europe, to aid one party against the other. On the contrary, with the exception of St. Domingo, the slaves in all countries have been the most quiet, peaceable, and least inclined to engage in mobs, insurrections and civil wars, of any class of people.

Slaves in time of War.

The Grecian states were frequently at war among themselves, during the many centuries of their independent existence; they were twice invaded by the Persians, then by Phillip, of Macedon, by whom they were conquered, and afterwards by the Romans, by whom they were conquered. From the earliest period of their history, slaves were numerous in all the Grecian states; and yet they took no part with any foreign enemy that invaded the country, and no part in the wars betwen the states. The Romans also had great numbers of slaves—consisting of captives taken in war.

Gibbon, the great British historian of the decline and fall of the Roman Empire, estimated the slaves of the empire, in the second century, at sixty millions, and the free inhabitants at the same number—making a population of one hundred and twenty millions.

The Italian Provinces were invaded by the Gauls at an early period, afterwards by Hannibal, with a Carthagenian army which remained in Italy many years. Italy was also invaded several times in the fifth and sixth centuries by the Goths and Vandals; and yet the slaves in Rome never rose in insurrection and united themselves with an invading enemy against their masters and their country, that we have any account of.

When the British troops invaded and occupied South Carolina, and marched through North Carolina and Virginia during the revolutionary war, and again invaded Louisiana, and landed below

New Orleans, in January 1815, they derived no aid from the slaves of those states.

When Napoleon invaded Russia in 1812, with the most powerful army ever marshaled under the canopy of heaven, there were in the dominions of the Czar about twenty-five millions of serfs—but those serfs were as loyal to the government, and as much afraid of the French troops as their masters were, and they rendered Napoleon no aid. If there is any instance on record of serfs or slaves joining a foreign invading army against their masters and their country, in any considerable numbers, it has escaped my notice or recollection.

Such being the facts of history, what reason is there to believe that many of the slaves will rise against their masters and join an invading army, in case of civil war between the free and slave states; and what christian or christian moralist could wish them to rise in rebellion, and butcher the whites indiscriminately, young and old, male and female—and burn and destroy property, and devastate the country, as the blacks did in St. Domingo? That some would do so, there is much reason to expect; but that any great numbers of them would do so, is contrary to the history of slavery during the last three thousand years.

So far from slaves being an element of weakness to a state in a hot climate, we believe they are an element of strength to a warlike people; and that the four millions of slaves at the south, by reason of their peaceful labor for their masters, and the cheapness of their support, add to the military strength of those states as much as three millions of free persons would in the same climate, without any slaves.

Population and Military Power.

The relative population of the free and slave states may be stated in round numbers as follows:

White population of free states and territories, about	18,600,000
Free colored persons,	225,000
Total in free states and territories,	18,825,000
Whites in the slave states,	8,100,000
Free blacks,	260,000
Slaves,	3,950,000
Total in the slave states,	12,310,000
Total population of the United States,	31,135,000

The white population of the slave states is now nearly four times as large as that of the same class in the whole United States in 1776, and the slaves are nearly eight times as numerous. The

slave states have about two millions of men capable of bearing arms, a large portion of them animated by a fierce spirit of war, independence of the present federal government, and the formation of a southern confederacy. They have been supplied through the late secretary of war, under Buchanan, with several hundred thousand stand of arms; and the agricultural labor of the slaves will enable them to support large military forces constantly in the field within their own limits, and the railroads will furnish great facilities for moving their troops, munitions of war and provisions, from one point to another, to concentrate them at points of attack.

The population of Great Britain and Ireland, in 1776, was about thirteen millions; with her East and West Indian, Canadian, and other provinces, her vast fleets, manufacturing industry, and large commerce, she was perhaps as powerful to wage a foreign war as the free states alone are at the present time. The thirteen American colonies were then poor, weak, almost destitute of manufacturing and mining industry, and destitute of arms, munitions of war, and of military science. The slave states are now well supplied with arms, have a great number of scientific military officers, perhaps five or ten times as much mining and manufacturing industry as the whole thirteen colonies had in 1776; their agricultural products are worth in the markets of the world more than five times as much; their population is nearly five times as great; and with their railroad facilities, they have more than five times the power of self-defence that the whole thirteen colonies had in 1776.

With the exception of their efforts to take the United States forts, arsenals, and public property within their limits, the slave states will act on the defensive; and our readers should bear in mind, that the cost of carrying on a defensive war is small compared with a foreign and distant one—that men will fight desperately to defend their own homes and state; and it is impossible for a nation or people to conquer a people animated by a warlike spirit and a determination to maintain their independence, unless the former is two or three times as powerful as the latter.

If we are correct in these conclusions, it will require something more than a few skirmishes before breakfast, to reduce even the cotton states alone to subjection to the laws and government of the United States; and it can not be advantageous for the federal government to attempt to do much more than to man the forts and navy yards remaining in the possession of the United States, blockade the ports and harbors of the seceeding states, cut off their commerce by sea, and thereby strike a blow at their industry and their business, weaken them as much as possible, and let them suffer until they come to their senses.

The rebels have already inaugurated a reign of terror in Charleston, New Orleans, and many other cities of the gulf states; business is generally paralized in those states, and their industry de-

ranged; the expenses of their military movements are large and must necessarily increase as long as they continue their treasonable course; money has become scarce, credit gone, and taxation will soon grind hard. The principal ground now remaining for hope, that permanent disunion and a bloody civil war can be avoided, rests in the possibility, and perhaps I may say the probability, that the rebels may quarrel among themselves, and thus save the country.

It may not be profitable, however, for us at the north to magnify our own power and importance, and to look upon the power of the slave states with contempt, and regard them as poor, weak, and totally unable to defend themselves. It is not best for our people to deceive themselves with such delusive phantoms. On the contrary, we may better inquire into and understand the true condition of things, look the difficulties fully in the face, and try to provide for them wisely and manfully, as far as circumstances will permit.

SEC. 21. DANGERS OF THE COUNTRY, AND THE REMEDIES PROPOSED.

Six states have passed ordinances declaring their separation from the Union. They have adopted treasonable measures to overthrow the constitution and the laws of the United States within their respictive limits, to prepare for war, set the national government at defiance, and form a southern confederacy. The dates of their several ordinances of secession are as follows:

By South Carolina, December 20th, 1860.
By Mississippi, January 9th, 1861.
By Florida, January 11th, 1861.
By Alabama, January 11th, 1861.
By Georgia, January 18th, 1861.
By Louisiana, January 26th, 1861.

The states of Arkansas, Missouri, North Carolina, and Virginia, are all moving in the same direction. The governor of Virginia at first declared a sort of armed neutrality of that state; but the indications now are, that the secessionists are getting the advantage of the Union men in Virginia, and that they will plunge that state also into the vortex of treason and rebellion; and there is much reason to fear that her influence may draw Maryland, Delaware, Kentucky, Tennessee and Texas with her. The only grounds for hope are: 1st. The speedy exhaustion of the gulf states, and dissension among themselves; and secondly, the adoption of such measures of conciliation as may satisfy a large majority of the people of the northern slave states: to satisfy the cotton or gulf states is impracticable.

Of all the propositions for the adjustment of the difficulties, the preamble and resolutions of Mr. Crittenden, introduced into the senate of the United States, on the 18th of December last, have

attracted the most general attention, and seem the most likely to become the basis of an arrangement. They are as follows:

"*Whereas*, Alarming dissensions have arisen between the northern and southern states as to the rights of the common territories of the United States, it is eminently desirous and proper that such dissensions should be settled by the constitutional provisions which give equal justice to all sections, whereby to restore peace: Therefore

Resolved, By the senate and house of representatives, that the following article be proposed and submitted as an amendment to the constitution, which shall be valid as a part of the constitution, when ratified by conventions of three-fourths of the people of the states.

First. In all the territories of the United States, now held or hereafter to be acquired, situated north of latitude thirty-six degrees and thirty minutes, slavery or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory south of said line of latitude, slavery of the African race is hereby recognized as existing, and shall not be interfered with by congress; but shall be protected as property by all the departments of the territorial government during its continuance; and when any territory north or south of such line, within such boundaries as congress may prescribe, shall contain the population necessary for a member of congress, according to the then federal ratio of representation of the people of the United States, it shall, if its form of government be republican, be admitted into the Union on an equal footing with the original states, with or without slavery, as the constitution of such new state may provide.

Second. Congress shall have no power to abolish slavery in places under its jurisdiction, in States permitting slavery.

Third. Congress shall have no power to abolish slavery in the District of Columbia, while it exists in Virginia or Maryland. Congress shall never, at any time, prohibit the officers of the government, or members of congress, whose duties require them to live in the District of Columbia, from bringing slaves, and holding them as such.

Fourth. Congress shall have no power to hinder the transportation of slaves from one state to another, whether by land, navigable rivers, or sea.

Fifth. Congress shall have power by law to pay the owner who shall apply, the full value of the fugitive slave, in all cases when the marshall is prevented from discharging his duty, by force or rescue, made after the arrest. In all such cases the United States shall have power to sue the county in which such violence or rescue is made, and the county shall have the right to sue the individuals who committed the wrong, in the same manner as the owner could sue.

Sixth. No future amendments shall affect the preceding articles, and congress shall never have power to interfere with slavery in the states where it is now permitted.

Seventh. That the fugitive slave law should be amended, to prevent kidnapping, and faithfully executed, and all personal liberty bills conflicting with it so far amended as to prevent such conflict.

The last resolution declares that the southern states have the right to the faithful execution of the law for the recovery of slaves, and such laws ought not to be repealed or modified so as to impair their efficiency. All laws conflicting with the fugitive slave laws will be void, yet congress will not deem it improper to earnestly ask the repeal of such laws. The fugitive slave law ought to be so altered as to make the commissioner's fee equal, whether decided for or against the claimant, and the clause authorizing the person holding the warrant to summon a *posse comitatus* to be modified, so as to restrict it to cases where violence or rescue is attempted. The laws for the suppression of the African slave trade ought to be effectually executed."

As to the first amendment proposed by Mr. Crittenden, we will remark, that the repeal of the Missouri compromise having alarmed the people of the north, caused great excitement, and been the principal cause of the formation and final success of the republican party, we think, in the present exigences and condition of the country, that a large majority of the party will be satisfied with its restoration, and the admission of Kansas as a free state. But we do not think it expedient or proper for this generation to pledge itself and the national government, to allow and guarantee slavery in all the territories and country the government may hereafter acquire, south of its present boundaries; and to admit each territory as a state as soon as it may have a sufficient number of inhabitants to be entitled to one member of congress. Such a pledge would be a direct encouragement to a system of filibustering to obtain the whole, or large portions of Mexico, Central America, and perhaps portions of South America, as well as Cuba and other West India Islands, to be eventually brought into the Union as slave States—to give the slave States the permanent preponderance in the United States Senate, and the absolute control of the national government.

As slavery has been established in New Mexico and now exists by virtue of laws passed by the territorial legislature; and in as much as the soil and climate of the country is such that slave labor can never be made profitable, we do not see that the cause of freedom will loose anything by letting it remain as it is now, and giving a guarantee to that effect; if such a guarantee can contribute to the peace and harmony of the country.

The republican party is pledged to oppose the extension of slavery to countries and territories now free, but it is not pledged to abolish or attempt to abolish slavery where it now exists by the local law. It is no more pledged to abolish slavery in New Mexico, where African slavery has been established by the laws of the territory, and where peon slavery has existed for centuries, than it is to abolish slavery in the District of Columbia, and in the United States forts and navy yards situated in the slave states. It does not seem worth while to plunge the nation into civil war, to assert an abstract principle; nor does it seem best to attempt to abolish slavery, by an act of congress either in New Mexico or the city of Washington; which would alarm all the northern slave states for their future peace and safety, array them against the free states, unite them with the gulf states in the formation of a southern confederacy, and thereby produce an immediate and permanent dissolution of the Union, and bring upon us civil war, with all its sacrifices, evils, and horrors. We have gained a noble republican victory; let us secure its fruits by a wise and conservative policy. By a course of radicalism, all may be lost.

Whenever there are wide differences of opinion among the people of a nation, it is impossible to make laws of a local bearing in

accordance with sound principle, and with what every class may deem just and right. Hence the necessity of some conciliation, and of accommodating the laws and institutions of a country to the opinions, and also to the prejudices and habits of the people. You cannot force a high spirited people to change either their opinions or their habits of life and modes of living. They think they have a right to freedom of thought, freedom of opinion, and to regulate their domestic institutions in their own way, and will resent most violently at the hazard and cost of civil war, any attempt to interfere with their right to think for and govern themselves.

Immediately after the organization of the federal government, all the territories north of the Ohio river, now comprising five states, was dedicated to freedom; and the territory ceded by North and South Carolina to the United States, (now comprising the states of Tennessee, Alabama, and Mississippi), was dedicated to slavery—to be occupied by slave-holders with their slaves. This was in accordance with the wants, habits, opinions, and prejudices of the people of different sections of the United states; and the patriots of the revolution did not hesitate to agree to it, as an equitable arrangement and division of the territories. It gave peace to the country; and they did not regard it as any sacrifice of principle. Why not make a similar division of the present territories of the United States, on a line of thirty-six and a half degrees of latitude; in accordance with the Missouri compromise of 1820, as well as with the action of the first congress during the administration of Gen. Washington? As both African and peon slavery now exists in New Mexico, such an act would merely recognize the present state of things, and tend to satisfy and conciliate the border slave states, and give peace to the Union.

We know very well that these views will be distasteful to many anti-slavery men of this state, and that their presentation will excite a temporary prejudice against us and our paper; but we do not intend to sacrifice the best interests of our country for the purpose of courting popularity. We have an abiding confidence that the good sense of nearly all our readers will do us justtice, and sustain us in the free discussion and advocacy of such measures as we believe will tend to secure peace and the general welfare of the United States. We do not belong to that class who believe that slavery is the only evil in the world or in the United States, and that every present good to the free states should be sacrificed, for the utopian project of preparing the way to compel the eventual abolition of slavery in the slave states. We prefer to be conservative and self-sacrificing patriots, rather than enthusiastic fanatics and radicals—to counsel practical wisdom, rather than an obstinate adherence to abstractions which are impracticable, and can not be carried into effect in the present condition of the public mind in the slave states. We counsel conciliatory measures towards the northen slave states, that tend to peace; and at the

same time we advise strong military measures to execute the laws and save the Union. Laws can not be passed and the government sustained, without the concurrence of a majority of both houses of congress; and hence the necessity of such conciliatory measures as will command a majority. The president alone does not constitute the government; and hence it is idle for our republican friends to think, because they have elected Mr. Lincoln president, that he alone can carry on the government, without a majority in each branch of congress.

Let us not be misunderstood. We do not belong to that class of yielding, conciliating spirits, who believe the national government must necessarily crumble to pieces, if a few lives are sacrificed with powder and ball in executing the laws. On the contrary, we believe it better to maintain the Union if possible, and to put down insurrection and rebellion by military force, even at the sacrifice, directly and indirectly, by both parties, of 100,000 lives, and the expenditure of three hundred millions of dollars in money and property—rather than to look on pusillanimously, and allow the Union to be dissolved by traitors. Such evils we think would be small compared with those which would necessarily arise from overturning the constitution and national government, and the division of our country into two, three, or more confederacies, or sovereignties; which would involve almost perpetual war for half a century to come. And if by a large expenditure of money and lives we can perpetuate the Union for the benefit of our posterity, we believe they will bless our names and our efforts, for generations to come—even when they are struggling to pay the large war debt which we may contract. We would however avoid the evils of war, if it can be done, by a proper spirit of conciliation.

The admission of New States.

The constitution authorizes congress to admit new states. There is reason to believe however that in authorizing the admission of new states, the constitutional convention had reference to new and young communities that might thereafter be formed and organized into territories and states, from the western territories, then belonging to the United States, and contiguous portions of the continent then unsettled, or very sparsely settled, which might thereafter be acquired by congress, and settled by our people, forming a homogenious people with those of the other and older states. We do not believe that the constitutional convention contemplated, or the words "new states," can apply to Cuba and the old central and southern states of Mexico, which were organized as Spanish provinces nearly three centuries before that time.

When Louisina, Florida, Texas, and California were acquired, there were but few inhabitants in each. Those large districts of country have been settled by our own people, and with the exception of a few of French and Spanish descent, they speak the same

tongue and have the same literature, religion, habits, institutions, and systems of law and government, as the people of the old states.

New Mexico and Utah.

If New Mexico and Utah should be admitted into the Union as states, they would form an exception to the general rule. There is no affinity between the people of those territories and the people of the present states. About nine-tenths of the people of New Mexico are partly civilized, uneducated Indians, much inferior in the scale of civilization to the Cherokee, Choctaw, and Chickasaw, and some other tribes of Indians west of Arkansas.

The most of the Mormons of Utah are ignorant, unlettered fanatics from Europe, under the spiritual dominion and bondage of Brigham Young and his associated unclean spirits of the Mormon priesthood, having from two to fifty wives each. Their government is an ecclesiastical despotism, very hostile to the government of the United States, and recently in open rebellion against it; and their people among the most despicable fanatics, and the most degraded polygamists upon the face of the earth. Should Utah be admitted as a state, and such traitorous creatures as Brigham Young and Elder Kimball be admitted into congress and the United States Senate, and be permitted to pollute the official society of Washington with their degraded spiritual wives?

We do not believe that the people of either Utah or New Mexico will be so reformed, civilized, and improved in intelligence as to be fitted for self-government, and for admission into the Union as an independent state, within a century to come; and therefore we are opposed to such an alteration of the constitution as will pledge the government to the admission of any more new states on their attaining a certain number of inhabitants, without reference to their character, intelligence, fitness or unfitness for self-government.

Basis of our System of Government.

It is generally recognized as a political truth, that our republican or democratic system of government (with nearly universal suffrage) is based on the moral virtue, stability of character, and intelligence of the people—on their capacity to think for themselvs, to judge of men and measures, and on their habits of industry, respect for, and submission to the laws; in common parlance, on their fitness for self-government. When suffrage is universal or nearly so, a common school education ought to be extended to the whole people, to prepare them for its exercise.

Everything of a vegitable nature which grows spontaneously, without the agency of man, is adapted to the climate, soil and condition in which it grows. Such is the case with animals. They grow and multiply spontaneously only in climates and situations adapted to their constitution and nature. Man can not live in society without governments and laws; hence some rude system of

government has grown up, (as we may say spontaneously), among every primitive people. Usages and customs which grow up spontaneously among the people, generally form the basis of law and government in all independent nations. Except so far as they may be influenced by religion and other foreign influences, the system of law and government which grows spontaneously by usage and custom, tends to adapt itself to the character, condition, habits and degree of intelligence of the people, as much as vegetables do to the climate and soil in which they grow.

In the hot climates of the eastern continent absolute monarchy, or despotism, seems to have existed in all ages of the world; while in more temperate regions, the patriarchal system has ever existed either alone, or more or less interwoven with monarchy; and as the people have advanced in civilization and intelligence, the government has been more and more liberalized, and a larger number of persons participated in it. Systems of government, more or less liberal and republican in their character, grew up as it were spontaneously, in Greece, Italy, Switzerland, Netherlands or Holland, in these United States, and in all the British Provinces of North America; but never in any place in the torrid zone, or in any excessively hot climate.

Protestant christianity and free toleration in matters of religion, seem also necessary to our system of government. The predominance of Catholicism, and a mercurial temperament like the French and Spanish, do not seem consistent with a republican system of government. It has been twice tried in France, and signally failed. It has been transplanted from the United States to Mexico and Central America, and has nearly failed in all the South American States lying in the torrid zone—having been much more successful in the temperate climate of Chili and the Argentine Republic, than in any of the states lying in the torrid zone.

Mexico, Central America, and Cuba.

We have no objection to taking Mexico and Central America under the protection of the United States by treaty, and establishing a protectorate system of government in relation to and over them. Nor have we any objection to the acquisition of those countries, or any portion of them, to be held and governed during all future time, as territories, in the same manner as the territories of the United States have been governed during the last seventy years. We think that such an arrangement would ensure them peace and security, and that the half civilized people of those countries, as well as of the United States, would derive many advantages from such a system and course of policy, without any dangerous evils. They would get protection and security, and we should get the advantage of their commerce, and a theatre of activity for our young merchants, teachers, professional men and politicians. But we do not believe that the Mexicans, or any other

people of the torrid zone, are fitted for entire self-government, or capable of maintaining republican institutions like those of any one of our states. On the contrary, we believe they are fitted only for subordinate territories or provinces of a foreign government, or for a military monarchy.

Mexico has nearly eight million of inhabitants, about 800,000 square miles, and twenty-two states, averaging nearly as large as the state of Ohio. About one million of the inhabitants are of pure Spanish descent, five millions of pure Indian blood, and nearly two millions of the mixed races. Central America comprises five states, about 155,000 square miles, and over two millions of inhabitants, of the same mixed and heterogeneous character of the Mexicans.

The Indian population of Mexico is scarcely equal in intelligence to the free mulattoes and blacks of the United States, or even to the slaves bred in the cities; and very little superior to the slaves of the plantations. Do any of our readers believe that a republican form of government could be maintained in our gulf states, with the slaves all emancipated, and universal suffrage? Is any republican or democrat of our country so infatuated with liberty and our republican institutions, as to believe that our system of government could be maintained with purity, after the admission of twenty-two Mexican states on an equal footing with the present states, with over fifty members of congress, and forty-four senators admitted into the United States Senate?

Personal liberty is not the only requisite of real freedom. Men are truly free only when they are governed by reason, based on intelligence. The Spanish slave holders of Cuba, as well as the free negroes of St. Domingo, are generally governed by impulses, appetites, and passions, and not by reason. They are very generally slaves to their appetites, lusts and passions—to their passions for frivolous amusements, gambling, public shows and exhibitions, vain pageantry, and social vice in every form. Very little real and rational freedom exists, or ever did exist in the torrid zone. And the only ground for hope of its ever existing there, must arise from protestant christianity, free toleration in matters of religion, education in the principles of Anglo-American civilization, industry, habits, usages and customs, the administration of many of the higher executive and judicial offices of government, by men so educated in a temperate climate; and a constant stream of emigrants from temperate climates, to infuse new life, energy and civilization among the people. The descendants of emigrants from temperate to hot climates degenerate and lose the energies and virtues of their ancestors, and hence the necessity of constant emigrations from temperate climates, to maintain any considerable degree of civilization in the torrid tone.

The truth is, neither the people of Mexico, Central America,

Cuba, or any other country of the torrid zone, have any of the leading elements which we have enumerated, and which are generally regarded as necessary to fit them for self-government, and such institutions of government as we have in the United States. We therefore have strong objections to any such change of the Constitution, as will pledge the National Government to the admission of any State or States to be formed out of any portion of country lying south of the present limits of the United States.

On the 11th of January, senator Hunter, of Virginia, said in the United States Senate, that the only thing which could preserve the peace of the country, was the adoption of amendments to the constitution, which he proposed as follows:

"First. Congress has no power to abolish slavery in any state, the District of Columbia, dock yards, forts and arsenals of the government.

Second. Congress shall do nothing to obstruct the inter-state slave trade.

Third. That it is the duty of each state to suppress armed invasion of another state.

Fourth. That any state shall be admitted to the Union, with or without slavery, according to the votes of the people.

Fifth. All states shall restore fugitive slaves, or pay their value to their owners.

Sixth. All persons who violate the criminal laws of a state, and make their escape therefrom, are to be deemed fugitives from justice, and surrendered on demand.

Seventh. Congress shall declare the right of the government to recognize and protect public property, wherever the government shall have jurisdiction.

Such laws must be passed by majorities of the Senators of both the non-slaveholding and slaveholding States. Also that the supreme court shall be readjusted, and shall consist of five judges from each section."

The politicians, statesmen and people of the south upon the question of slavery, may be divided into three parties.

First. The extreme men, mostly confined to the gulf states; who insist on the constitutional right to expand the institution of slavery indefinitely,—to extend it to all the present territories of the United States, and to all countries and territories which may be hereafter acquired; and that it is the duty of congress to protect the rights of the slaveholder to the enjoyment of his slaves as property, by a slave code.

Second. Those that will not insist on the claim to carry slaves into the territories north of thirty-six and a-half degrees, but fear the growing power of the free states, and demand constitutional guarantees, that the free states shall never deprive the south of their rights under existing laws.

Third. Those moderate men, who are content with the constitution and laws of the United States as they are, and demand no farther guarantees.

The great mass of the people of the northern slave states belonged two months since, to the third class described; but so much

effort has been made to excite them, that a large portion of that class has gone over to the second class, and now think they are not safe without additional constitutional guarantees.

The first class described think their interests, and the interests of the slave states generally, would be promoted by disunion and the formation of a southern confederacy, and hence they are determined on it, and are using every means in their power to excite and alarm the people of the northern slave states, to induce them to join in the secession movement, and the formation of a new confederacy.

Nothing can be done to conciliate the first class; but the recent speech of Senator Seward goes far towards conciliating the second class.

The people as well as the politicians of the cotton states have deluded themselves with the sophistries of free trade, and with the belief that the dissolution of the Union and the formation of a southern confederacy, would increase their power and relative importance in the civilized world, and also promote their interests; and therefore they are determined on the formation of a southern confederacy, and will seize upon any cause or pretence to influence the public mind, to promote the end so much desired.

The people of the other slave states do not desire a dissolution of the Union; they are satisfied with the Union as it is, provided the institution of slavery as it now exists can be guaranteed to them, and secured against all interference on the part of the abolitionists and free states at the north. But many of them seem determined at all hazards, and at the risk of civil war, to maintain the institution of slavery as the basis of their industry, prosperity, domestic comforts, personal independence of, and exemption from manual labor, and as the sheet anchor of their institutions. They are determined to maintain slavery in the Union or out of it; in the Union if they can; out of it if they must.

The principles of the republican party are opposed to the extension of slavery; but there is nothing in the Chicago platform, or in the principles adopted by them as a party, which requires the party to take any measures to abolish slavery in the forts, arsenals and navy yards of the United States, situate in the slave states—or in the District of Columbia. The republicans would not, therefore, be guilty of any inconsistency or abandonment of principle in assenting to the 2d, 3d and 6th articles of the amendments proposed by Mr. Crittenden. The venerable John Quincy Adams while asserting the power of congress (more than twenty years since) to abolish slavery in the District of Columbia, declared that he did not think it expedient for congress to do so. There were only 3,687 slaves, and nearly ten thousand free persons in that district in 1850. There were 4,694 slaves in the district in 1840,—so that the number seems to be decreasing, and slavery will probably eventually run out of itself in the district, without any agitation of the question in congress or among the people.

The sixth and the last propositions of Mr. Crittenden, and the third one of Mr. Hunter, are assented to by Mr. Seward in his late speech in the senate, on the 12th of January.

Mr. Seward said:

"Beyond a doubt, Union is vitally important to the republican citizens of the United States; but it is just as important to the whole people. Republicanism and Union are, therefore, not convertible terms. Republican is subordinate to the Union, as everything else is, and ought to be—republicanism, democracy, every other political name and thing, are all subordinate—and they ought to disappear in the presence of the great question of union. So far as I am concerned, it shall be so; it would be so, if the question were sure to be tried as it ought to be determined, by the peaceful ordeal of the ballot. It should be so all the more, since there is on one side preparedness to refer it to the arbitrament of civil war. I have such faith in this republican system of ours, that there is no political good which I desire that I am not content to seek through its peaceful forms of administration, without invoking revolutionary action.

If others shall invoke that form of action to oppose and overthrow government, they shall not, so far as it depends on me, have the excuse that I obstinately left myself to be misunderstood. In such a case I can afford to meet prejudice with conciliation; exaction with concessions which surrenders no principle; and violence with the right hand of peace. Therefore, sir, so far as the abstract question whether, by the constitution of the United States, the bondman who is made such by the laws of the state, is still a man or only property, I answer that, within that state, the laws on that subject are supreme; that when he has escaped from that state into another, the constitution regards him as a bondman, who may not, by any law or regulation of that state, be discharged from his service, but shall be delivered up on claim, to the party to whom his service is due; while prudence and justice would combine in persuading you to modify the acts of congress on that subject, so as not to oblige private persons to assist in their execution, and to protect freemen from being, by abuse of the laws, carried into slavery. I agree that all laws of the states, whether free states or slave states, which relate to this class of persons, or any others recently coming from or resident in other states, and which laws contravene the constitution of the United States, or any law of Congress passed in conformity thereto, ought to be repealed.

Secondly, Experience in public affairs has confirmed my opinion, that domestic slavery, existing in any state is wisely left by the constitution of the United States exclusively to the care, management, and disposition of that state; and if it were in my power, I would not alter the constitution in that respect. If misapprehension of my position needs so strong a remedy, I am willing to vote for an amendment to the constitution, declaring that it shall not, by any future amendment, be so altered as to confer on congress a power to abolish or interfere with slavery in any state.

Thirdly, While I think that congress has exclusive and sovereign authority to legislate on all subjects whatever, in the common territories of the United States; and, while I certainly shall never, directly or indirectly, give my vote to establish or sanction slavery in such territories, or anywhere else in the world, yet the question what constitutional laws shall at any time be passed in regard to the territories, is, like every other question, to be determined on practical grounds. I voted for enabling acts in the cases of Oregon, Minnesota and Kansas, without being able to secure in them such provisions as I would have preferred; and yet I voted wisely. So now, I am well satisfied that, under existing circumstances, a happy and satisfactory solution of the difficulties in the remaining territories would be obtained by similar laws, providing for their organization, if such organization were other-

wise practicable. If, therefore, Kansas were admitted as a State, under the Wyandotte Constitution, as I think she ought to be, and if the organic laws of all the other territories could be repealed, I could vote to authorize the organization and admission of two new States which should include them, reserving the right to effect subdivisions of them whenever necessary into several convenient states; but I do not find that such reservations could be constitutionally made. Without them, the ulterior embarassments which would result from the hasty incorporation of states of such vast extent and character, would outweigh all the immediate advantages of such a measure.

But if the measure were practicable, I should prefer a different course, namely: When the eccentric movements of secession and disunion shall have ended, in whatever form that end may come, and the angry excitements of the hour shall have subsided, and calmness once more shall have resumed its accustomed sway over the public mind, then, and not until then—one, two or three years hence—I should cheerfully advise a convention of the people, to be assembled in pursuance of the constitution, to consider and decide whether any and what amendments of the organic national law ought to be made.

Fourthly, I hold myself ready now, as always heretofore, to vote for any properly-guarded laws which shall be deemed necessary to prevent mutual invasions of states by citizens of other states, and punish those who shall aid and abet them."

Fourth. So far as regards the fourth proposition of Mr. Crittenden, the owners of slaves for fifty years after the adoption of the constitution of the United States, enjoyed the privilege of transporting their slaves through free states, and of bringing slaves with them as servants, when they visited the free states, and taking them back again without molestation, on their return home. No practical evil resulted from that practice.

Fifth. The fifth proposition of Mr. Crittenden, to pay for fugitive slaves in certain cases, involves no abandonment of republican principles. We have heretofore suggested in this Journal, that congress pass an act to pay the owners of fugitive slaves two-thirds of their value out of the United States Treasury, on emancipation papers being duly executed. This would leave to the owner the option to pursue and capture his slave if he could, or emancipate him and receive two-thirds of his value from the United States. It would be equivalent to the United States purchasing of their owners and emancipating nearly all the slaves that may hereafter escape. Certainly no friend of freedom, who is opposed to slavery, ought to object to such a measure. The tendency of it would be to satisfy the border states, allay irritation, and restore harmony of feeling between the free and the border slave states.

We have now concluded a cursory examination of the proposed amendments of Mr. Crittenden, and will refer to those of Mr. Hunter.

The first proposed amendment of Mr. Hunter is included in the 2d, 3d, and 6th amendments, proposed by Mr. Crittenden, and has been already commented on.

The second amendment proposed by Mr. Hunter, is included in the 4th amendment proposed by Mr. Crittenden, though not in

so clear terms. It should be limited to the slave trade between slave states, and in that sense, such is the law at the present time, and such has been the law ever since the organization of the national government. Slaves being regarded by the constitution and laws of the United States as persons as well as property, several of the judges of the supreme court of the United States have expressed the opinion that the power granted to congress to regulate commerce between the states, does not authorize them to regulate or interfere with the domestic slave trade between the slave states. This we believe the proper construction of the constitution, which regards slaves as persons owing service, but having personal rights, and capable of committing vice and crime; and on that account each state, (and not congres), has the right and power to say whether that class of persons shall be admitted into the state. In that view of the case, the amendment is proposed as a matter of precaution; not to lessen, but to define the present powers of congress upon that point, and prevent any agitation of the question in the future. We therefore see no substantial objection to the proposed amendment. It may remove fears on the part of some, of future agitation and trouble; and if it should do no good, it can not possibly do any harm.

The third amendment proposed by Mr. Hunter, declares a truth which must be obvious to any well informed man, having a well balanced mind; and the barbarous attack of John Brown upon the people of Virginia, at Harper's Ferry, in 1859, shows the importance of legislative action upon the subject. Mr. Seward, in his late speech, assents to it, and says:

"Fourthly. I hold myself ready now, as always heretofore, to vote for any properly guarded laws which may be deemed necessary to prevent mutual invasions of states, and to punish those who shall aid and abet them."

We think the future peace and welfare of the country require both state and congressional legislation upon this subject, to prohibit such invasions, and to punish those who participate in them. Ours should be a government of laws, and not of mobs.

The fourth amendment proposed by Mr. Hunter is embodied in the compromise acts of 1850, to organize the territories of New Mexico and Utah; and is in accordance with the history and action of congress ever since the organization of the federal government. It is, in fact, the only rule of policy which is consistent with the peace of the country and the perpetuity of the Union. An attempt was made, in 1819, to violate this rule, and to refuse to admit Missouri into the Union, because her constitution recognized African slavery. The attempt excited the whole people of the south, and came near dissolving the Union—which was then saved by admitting the state with the provision known as the Missouri compromise—prohibiting thereafter slavery in all the territories lying north of thirty-six and a half degrees of latitude.

Any state admitted as a free state can, immediately after its admission, change its policy and its laws, and authorize and establish slavery; and congress has no power to prevent it. Hence no practical importance can be attached to the abstract power of congress to refuse to admit any more slave states. The best possible amendment that could be adopted, would be to prohibit the admission of any state to be formed, either in whole or part, out of any portion of country lying south of the present limits of the United States. This would prevent fillibustering for the acquisition of Cuba and other countries, to extend slavery southward.

The fifth amendment of Mr. Hunter, that the states shall restore fugitive slaves, or pay their value to their owners, is substantially the same as the fifth article of the amendment proposed by Mr. Crittenden. We have heretofore commented on this proposition, and suggested how it might be modified. We do not think it just or proper to compel either states or individuals to become the hunters of fugitive slaves, or responsible for their recapture and return to their masters; but we do think it would conciliate the border slave states, and contribute to the peace of the country, to compensate the owners for them under certain circumstances, on the owners emancipating them, as hereinbefore suggested.

The sixth amendment proposed by Mr. Hunter we believe is in accordance with both the letter and spirit of the constitution. It was not necessary, until within a few years past, the governors of some of the free states refused to surrender fugitives from justice, indicted in slave states for violating their criminal laws passed for the protection of the institution of slavery. Certainly it could not be the design of the northern people generally, or the republican party, as a party, to set the criminal laws of the slave states at defiance—to encourage their violation, and to harbor and protect from punishment those who violate them. If such is not their intention, there can be no harm in adopting this amendment to explain the constitution, determine its meaning, prevent its violation in future, from a misapprehension of its meaning; and avoid all irritation on account of its violation, or supposed violation. Much irritation and ill feeling has been excited in this matter in Kentucky, Virginia, and Maryland, for many years past, which the adoption of this amendment would avoid in future.

The seventh amendment proposed by Mr. Hunter is vague and indefinite, and entirely inadmissible; and the last one is still more objectionable. The last one seems to require a balance of power between the free and the slave states—to make the latter, (with very little more than half as much representative population), equal to the former in power. The free states never can, and never will agree to such an unreasonable and unjust proposition.

We have now examined in detail the amendments proposed by

Mr. Crittenden and Mr. Hunter, and the question arises—can the republican party adopt any, and which of them, without an abandonment of their republicanism—without a violation, or a compromise of their principles—without backing down, to use a significant phrase of ultra and timid men? This seems to be the main question for republicans to settle. It should be borne in mind that a large majority of the supporters of Mr. Lincoln in the States of Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois and Iowa, are old whigs of the Henry Clay school, and not abolitionists; that the states of Maine, New Hampshire, Michigan and Wisconsin, are the only ones in which the old abolition party, and the free soil element of the old democratic party, constitute a very large share of the supporters of Lincoln; that three-quarters of the supporters of Mr. Lincoln in Pennsylvania and New Jersey, care more about the Union and the protection of their industry, by means of a judicious tariff, than they do about the question of slavery; and that the repeal of the Missouri compromise, and the attempt of the democratic party to force slavery into Kansas, are the principal causes of uniting a majority of the people of all the free states, in the support of Mr. Lincoln.

The abolition principles of the old anti-slavery party were not adopted by the Chicago convention. The republican party could never stand upon the narrow platform of abolitionism, and carry through a presidential campaign successfully. The convention adopted all the leading measures of the old whig party, except a national bank, and with them planted themselves upon the principle of opposition to the extension of slavery to territories and countries now free, as the rock of safety. On these issues they fought the battle successfully; and achieved a glorious victory. The abolition of slavery in the States where it now exists, in the District of Columbia, in the forts, navy yards, dock yards and arsenals of the United States, situate in slave states, and in New Mexico, formed no part of the issues upon which the battle was fought, and the victory won. The amendments proposed by Mr. Crittenden, and the first six amendments proposed by Mr. Hunter, with the qualifications which we have suggested, involve new issues, outside of the Chicago platform, and not involved in the doctrines embodied in the Chicago platform; and the republican party can adopt them with propriety, if any great national good can be attained by doing so. We shall therefore advise their adoption with the qualifications suggested—*on the condition that an additional amendment be also adopted, declaring that all the territories, countries, and islands which shall be hereafter acquired, lying south of the present limits of the United States, shall be governed as territories, and that no portion of them shall ever be admitted as a state or states.* This we think would be a full equivalent for the concession—believing that it would

tend to secure, permanently, the balance of power in the hands of a people fit to exercise it—to secure union and harmony in the country, and the blessings of peace and prosperity, for ages to come.

Future strength of the Free and Slave States.

We can calculate from the past, with a reasonable degree of certainty, the future increase of the population of the free and slave states, if the Union can be preserved. We believe there can be no doubt that the settlement of California, Oregon and Kansas, as free states, will increase the predominance of the free states more and more—but think the ratio of increase must soon decline, as the population becomes more dense.

We estimate the population of the Free States, and the free and slave population of the Slave States, at the undermentioned periods, as follows:

		Slave States.	
	Free States.	*Free.*	*Slave.*
1860.	18,600,000	8,300,000	4,000,000
1870.	25,000,000	10,000,000	5,000,000
1880.	33,000,000	12,000,000	6,000,000
1890.	42,000,000	14,000,000	7,000,000

Not more than two slave states can be made of New Mexico, south of latitude thirty-six and a half degrees, while six or more free states can be made from the territories north of that line. Within twenty or thirty years, we may expect that there will be twenty-four free states, and not over sixteen or seventeen slave states at the most; and we have reason to believe that in the peaceful course of human events, in accordance with the providences of God, slavery will gradually decrease and dwindle away, in Delaware, Maryland, Western Virginia, Kentucky and Missouri. Our readers will therefore see that the free states have nothing to fear from the slave states, in case they should agree to the amendments proposed, with the qualifications, and on the conditions suggested. On the contrary, the slave states have reason to fear from the growing preponderance of the free states, that the spirit of abolitionism may extend, until it demand a change of the constitution, and attempt to abolish slavery in the states, where it is now protected by the constitution.

Our republican friends should bear in mind, that slavery existed in the District of Columbia when it was selected by Washington and his compeers as the seat of the national government, and had been established there more than a century previously: that great numbers of the southern members of congress and visitors from the south bring on their domestic servants to attend them, and regard their attendance as necessary to their comforts; and that any attempt by northern members of congress to abolish slavery in the District of Columbia, would be regarded by the whole south as an improper interference with their domestic customs, habits, and in-

stitutions—as an attack upon their rights and upon the institution of slavery itself—manifesting a fierce determination to abolish slavery in all the states, as soon as they can procure sufficient preponderence and power to amend the constitution and authorize congress to do so. This is their fear. They fear the increasing relative power and preponderance of the free states, and are determined to maintain the institution of slavery in the Union, or out of it.

Anticipations of the 4th of March, 1861.

Considering the violent fanaticism of some classes of people, and the great antagonism between the north and the south, we see no prospect of a settlement, (very soon if ever), of our existing national difficulties; and hence we expect the sun of March 4th, 1861, to rise and shine upon a divided people. We expect that our glorious Union will be practically dissolved before the inauguration of Mr. Lincoln as president—that a southern confederacy, of at least six of the cotton states with a provisional government, will have been formed; that a southern president will have been elected and inaugurated, and a rebel government put in operation—with large military forces well equipped, and in possession of all the southern forts, arsenals and navy yards of the United States, except a few situated on islands. We think it probable, that we shall also see an informal confederacy and a sort of armed neutrality established by the states of Virginia, North Carolina, Kentucky, Tennessee and Missouri, and perhaps Texas, Arkansas, Maryland and Delaware also—assuming to act as mediators between the national government, and the southern confederacy, and to dictate terms to each.

Great events usually cast their shadows before them. The clouds have been long gathering, threatening a storm of terrific violence. The Union is rapidly crumbling to pieces, and is already practically dissolved. How long the dissolution may continue; whether it be permanent or only temporary; how the Union can be reconstructed and placed upon a firm, secure basis; and whether the present states, five years hence, will constitute one united, strong and prosperous nation, or two, three, five or more distracted and weak confederacies, no human foresight can determine. But ordinary prudence requires that the northern states, as well as congress, should make immediate preparation for coming events of great magnitude; that the navy should be increased; the army doubled or trebbled in numbers, and put on a war footing; the militia re-organized without delay; and every proper measure of precaution and conciliation adopted to avert or mitigate as much as possible, the impending dangers and evils.

The delusions which operated upon the confederates, and upon a large portion of the southern people, will be discussed in the

next chapter, upon the causes of the rebellion; and in the progress of the work, I shall endeavor to suggest remedies for the evils growing out of excessive party spirit, nominating conventions, and political platforms.

Sec. 22. Fanaticism of Masonry and Anti-Masonry.*

Fanaticism tends to disgust some classes of people of a very different temperament and modes of thinking, and to produce fanaticism of an opposite character.

In the year 1826, Wm. Morgan, of Western New York, who had been a Free Mason, commenced the publication of a work to expose to the public the secrets of Free Masonry. The Masons of that vicinity, regarding his conduct as treacherous to the fraternity, were wrought up to such a degree of fanaticism as to believe he had forfeited his life, in accordance with the oath he had taken, and that they were justified in murdering him, and they did so. Though a large number of persons had some knowledge of the transaction, and many participated in the crime, and several were indicted and tried on charges of participating in it, yet, being bound together by secret oaths and obligations, it was impossible to fix the crime on any particular person or set of persons; and hence no one could be convicted of the murder. The murder, the judicial investigations and trials to ferret it out and punish the guilty parties, and the impossibility of doing it, produced great alarm and excitement in several of the northern states; caused the formation of a political party in many of the states, known as Anti-Masons; and wrought up the feelings and fanaticism of a majority of the people of large sections of country to such an extent, that it gave the Anti-Masonic party the political control in the state of Vermont, and nearly all the counties of western and northern New York, for a number of years. The state of Vermont chose Anti-Masonic electors for president, in 1832.

It seemed irrational and unjust to hold the whole fraternity in the United States, or even in the state of New York, responsible for the acts of comparatively few persons, or at most, of a few lodges of the order; and hence Anti-Masonic fanaticism soon

* This section should have been put next after section 7, of this chapter.

declined and died out; but its power and influence in the State of New York, for several years, drove nearly all the masons of that State into the democratic party. Anti-Masonry formed too narrow a base on which to found and maintain a political party, and therefore the party declined after a few years, and the most of the Anti-Masons united with the national republicans, and were finally merged in the whig party. Such are the natural tendencies and ordinary effects of fanaticism. No apparent good resulted from the organization of the Anti-Masonic party.

Sec. 23. Non-intervention, and state sovereignty over municipal subjects.*

The principles of non-intervention recognize the equality of nations, and the right of each to form their own government and to change it at pleasnre—to adopt and maintain such form of government as they see fit—to legislate for themselves upon all internal and municipal subjects, and also upon external subjects of navigation, commerce, and commercial contracts, in any manner not inconsistent with the laws of nations. The principles of non-intervention, in fact, form the main corner stones of international law, and the independence of nations. They require every nation to abstain from invading the dominions, or interfering in the affairs of neighboring nations, so long as the latter do not commit any flagrant acts against their rights. The safety and security of small and weak nations depend upon the principles of non-intervention, and the public opinion of the christian nations of the earth, to protect them from the ambition and the aggressions of their more powerful neighbors.

The principles of non-intervention form also the main corner stone of religious liberty and American Protestantism. They recognize the equality of the several churches; the liberty of the people, individually, to form their own opinions upon religious matters; the right of each church to adopt their own creed, system of discipline and mode of worship; and that neither the government nor any other church has any right to interfere with them, or to assume any power or jurisdiction over them, so long as they

* This and the next section should have been put after section 10, in chapter three.

do not infringe the equal rights of others, nor violate any sound principle of morals.

Our Savior taught the doctrines of non-intervention by the clergy and christian churches, in matters of law and government. His commands were, submit to the civil government; "render unto Cæsar the things that are Cæsar's, and unto God the things that are God's."

Our federal government is also based upon the principles of non-intervention with the states and state governments, in matters of municipal legislation and power, not specially granted to congress. The constitution of the United States creates a government for national, and inter-state purposes only; and recognizes the several states as independent sovereignties, in nearly all matters of an internal and municipal character.

Congress may pass laws upon a few subjects of a national or inter-state character, in accordance with express grants of power contained in the constitution, which are purely subjects of municipal legislation in independent nations. The federal government also guarantees to each state a republican form of government; and the constitution declares "*That the citizens of each state shall be entitled to all privileges and immunities of citizens of the several states.*" Congress may also levy taxes, for national purposes, in the several states. With these few exceptions, the several states are as independent of the federal government and of each other, and have as absolutely sovereign and supreme powers within their respective limits, over both persons and property, and all subjects of municipal law and legislation, as the nations of Europe have.

The privileges and immunities which citizens of one state are entitled to in other states are stated more fully in No. 4, of the Articles of Confederation. [Ante. pages 21 and 22.] They include the privilege of free ingress and regress to and from any state at pleasure; the privileges of trade and commerce; the right of making contracts, doing business, acquiring, holding, enjoying, and conveying property therein, both real and personal; and of dwelling or settling therein, with a view to become citizens thereof. But it does not give them the rights of voters; which can be acquired in each state only, in accordance with the constitution

thereof. Nor does it give them any greater privileges, immunities, or exemptions from taxation or other burthens, restrictions, and state laws, than are allowed to citizens of the state. Because a citizen enjoys certain privileges in his own state, it does not follow that he can go into other states and enjoy the same, unless the citizens thereof enjoy them.

The principle and rule of non-intervention is founded upon the sovereignty of the people of every state or country, in local and municipal matters, subject to the laws of nations, in inter-national matters, and in confederacies, subject also to the dominion of a national government in matters of national concern. It is founded on the absolute and unqualified right of the people of every country to choose their own form of government—whether it be monarchy, aristocracy or democracy, or the mixture of any two, or all three of those forms, and to change the same at pleasure; denies the right and propriety of any other nation or people interfering with them. It is not intended to give sanctity or strength to the claims of one nation or people to the permanent exercise of jurisdiction and dominion over an other—which is capable of self-government, even though the latter may be colonists of the former.

The rule of non-intervention properly applies only to a country or adjoining countries, occupied by the people of one nation, and denies the right of other nations to interfere in their affairs; it does not properly apply to foreign conquests, nor to distant colonies; for the exercise of permanent dominion of one nation or government over the people of another nation or country, is directly contrary to the principles upon which the rule of non-intervention is founded. When the people of a colony, at a distance from the mother country, have become sufficiently numerous and enlightened to form and sustain, properly, a national government, and occupy a country of sufficient size and resources for the support of an independent nation, any aid given to them by foreign nations to enable them to throw of the yoke of colonial bondage, and to govern themselves by means of a government of their own, is not a violation of the rule of non-intervention; the rule does not properly apply to such a case. The aid so generously given by France to the American colonies during the revolutionary war, was no violation of the great principle of non-intervention.

The secessionists and their European friends and sympathizers have endeavored to justify this secession, revolutionary movement and rebellion of the south, and their claims to the intervention of France and England in their behalf, upon the principles and doctrines of the American revolution; but the analogy between the two cases fails, in the most important particulars.

First, the seceding states had a fair and equal participation in the federal government, and were subjected only to laws, in making which, they largely participated; whereas the colonists had no participation in the British government, and were subjected to laws, in making which, they had no voice whatever.

Secondly, the broad ocean rolls between Great Britain and the United States—which rendered it proper for the latter to form an independent nation; but there are no natural boundaries between the northern and southern states. On the contrary, the course and magnitudeof the Mississippi river and its tributaries, and the formation of the country is such, as to fit the whole country, from the Atlantic ocean to the Rocky mountains, and from the great northern lakes to the gulf of Mexico, for the occupancy of one nation, and unfit it for division. It can not be divided without subjecting the people of the north-western states to very great inconveniences and evils, and to unjust restrictions and embarrassments. Furthermore, the people of the northern and southern states have had the same origin and national history, speak the same language, and have the same religious institutions and character. Nearly a century since, they formed the most solemn league that ever united a people, and for about seventy years they lived together harmoniously, under the most perfect constitution and system of government ever formed by man.

Such being the condition of things, there were no better grounds for secession and the separation of the south from the north, than there is for the separation of Scotland from England, or the south of France from the north part of that empire; and there is no more ground on which to justify the intervention of France and England, or either of them, in our civil war, than there would be to justify foreign countries in interfering to aid Scotland or the south of France in a similar revolutionary movement.

It has long been the policy of the monarchs of Europe to marry

their sons and daughters to princesses and princes of other reigning families—to render their governments stronger and safer by marriage relations and family affinities. By reason of that policy, there is much more sympathy of feeling between the monarchs of the different countries of Europe and their families, than there is between the people of different nations. On that account, the violations of the principle of non-intervention have usually been by one sovereign in favor of another, and against the people. Such interventions have generally resulted in the overthrow of popular rights, constitutions, and governments—and in the establishment of despotism, and of monarchies nearly despotic; and such has been their natural tendency.

Foreign intervention led to the first partition of Poland, in 1772, and to the final partition and destruction of that kingdom, about twenty years afterwards. The interference of Austria, England, and other nations of Europe in the affairs of France during the first revolution, drove the French people to a state of phrenzy, and was one of the principal causes of their great excesses during that unhappy period, and of the murder of the king. Shocking evils, but no good, arose out of the violation of the principle of non-intervention in France; the statesmen of Europe became so well satisfied of the evils, and of the importance of maintaining that great principle of international law and public policy, that when the revolution occurred in 1830, again in 1848, and again in December, 1851, there was no foreign interference, and the people and army of France were allowed to settle their own quarrels by civil war or otherwise, and to establish their own government in their own way, and to change it at pleasure, without foreign interference.

Non-intervention is a rule generally adopted and acted upon by Christian nations, in their intercourse with each other; it has never been extended to Mahometan nations, which do not recognize it. The Mahometans have warred against the Christian nations and peoples of the old world more than twelve centuries, and have endeavored to propagate Mahometanism by the sword, and to extinguish Christianity. They have imposed the yoke of Mahometan despotism and fanaticism, indiscriminately upon Christians and Pagans, whenever they could carry their military con-

quests. Not recognising the comparatively humane principles and usages of Christian nations, nor the civil nor religious rights of a conquered people, the influences of the Mahometans and Mahometan conquests were really so pernicious in their tendencies, as to justify Christian nations in interfering to over-turn their despotism, whenever it can be done without too great hazards and sacrifices to themselves.

The Turks conquered the eastern Roman Empire, including Greece, about the middle of the fifteenth century, and were the cruel oppressors of the Greeks from that time until England, France, and Russia interfered in their behalf. The Greeks rose in insurrection, in 1821, established a provisional government, and maintained an unequal contest with their oppressors for six years, before they received any foreign aid. The war was waged with such terrible cruelty on the part of the Turks, and such an utter disregard of all the humane principles which govern the warfare of modern civilized nations, as to shock the moral sense of the Christian world, and to call for foreign interposition, to stay the hand of butchery and vandalism. Great Britain, France, and Russia interfered in 1827; and the independence of Greece was acknowledged by Turkey, by the treaty concluded at Adrianople, September 14th, 1829. That interposition was in accordance with well established exceptions to the rule of non-intervention, and was not a violation of it. The Greeks not having any participation in the government of Turkey, the principles on which the rule of non-intervention is based, concedes to them the rights of sovereignty and independence. If the Turks ever had any rights over them, they had been forfeited by oppression and cruelty.

Sec. 24. Religious Liberty—Liberty of Speech, and the Freedom of the Press.

Some persons seem to have the impression that the constitution of the United States guarantees religious liberty, liberty of speech, and the freedom of the press, in the several states; but such is not the case. The first amendment to the constitution declares that "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or the press.*" That amendment contains no grant of power

to congress. On the contrary, it was adopted out of abundant caution, to declare that congress had no power to legislate upon such subjects—to declare the principle of non-intervention by congress therein, and that, in accordance with the 10th amendment, all power to legislate upon such subjects was reserved to the several states, to be exercised by each within its own limits. The civil and religious liberties, and also the liberty of speech and freedom of the press which people enjoy in this conntry, all depend exclusively upon their respective state governments, and not upon the federal government.

Religious liberty, liberty of speech, and the freedom of the press, are, to a certain extent, guaranteed in and by the most of the state constitutions, which furnish the only security for those rights. But there is no power in the federal government to prohibit any state from changing its constitution and abrogating all those guarantees of the most sacred rights of the citizen—establishing by law a religious creed, a state church, and supporting it by tithes or taxation—and at the same time establishing a rigid censorship of the press, and imposing great restrictions upon the liberty of speech, and absolutely prohibiting all discussions, either orally or in print, of religious creeds, the question of slavery, the rights of free colored people, or any other subject. All such acts of states would be exceedingly tyranical, contrary to the spirit of the age, and great abuses of power; but no one could pretend that they would be violations of the constitution of the United States, or that the federal government could, in such cases, afford to the oppressed citizens of the state, or to citizens of other states who might be aggrieved thereby, any remedy. These illustrations are presented to show to my readers that the civil and religious rights of the people of each of the states, and also their personal liberties, liberty of speech, and the freedom of the press, are all protected by their respective state governments and laws, and not

by the constitution, laws and government of the United States. Congress has no power to legislate upon such subjects.

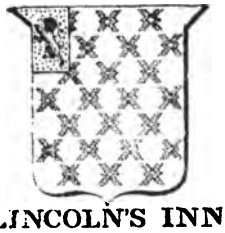
Schools and Education.

Schools and education in the several states are regulated exclusively by state laws. They are municipal, and not national matters; hence congress has no jurisdiction over them, and no power over the subject matter. Many of the slave states have passed laws to prohibit persons from instructing slaves to read or write; and in some of the states also prohibiting such instruction being given to free colored persons; and imposing severe penalties for violations of such laws—making it in some cases a state prison offence. All such laws are arbitrary, tyranical, and unjust; and yet it can not be truly affirmed that they violate the constitution of the United States, or the rights of citizens of other states to establish schools to educate the colored people. Nor can it be pretended that the government of the United States, or any of the states, or the people thereof, have any legal right to interfere in the matter, to remove or mitigate such evils. On the contrary, the principles of municipal sovereignty and non-intervention by the people of other states, or by the federal government, apply to all such cases.

The people of the slave states, with very great unanimity, regard the persistent efforts of the abolitionists to force their anti-slavery opinions upon the south, and also their efforts to establish schools to educate the colored people, as infringments of the rights of the southern people to govern themselves. They have determined that they will not be instructed by the northern people, either orally or by means of the press—and that northern philanthropists shall not establish schools among them, to educate the colored population. They have passed many severe laws to protect themselves from such interferences; and however much we may condemn their system of slavery, we can not affirm that the federal constitution deprives them of the power to pass such laws; though we may

impugn their justice and propriety, and condemn them as abuses of power. They are based upon state sovereignty, and their validity is clearly recognized by the great principles of non-intervention; and hence the people of other states have no right to interfere. All interferences in such matters are in the end productive of more evil than good.

These are unpleasant and unwelcome truths to a large portion of our northern people; but being fundamental truths, on which our federal government is based, and upon the observance of which the future peace of the country may depend, it is important for the people to know them.



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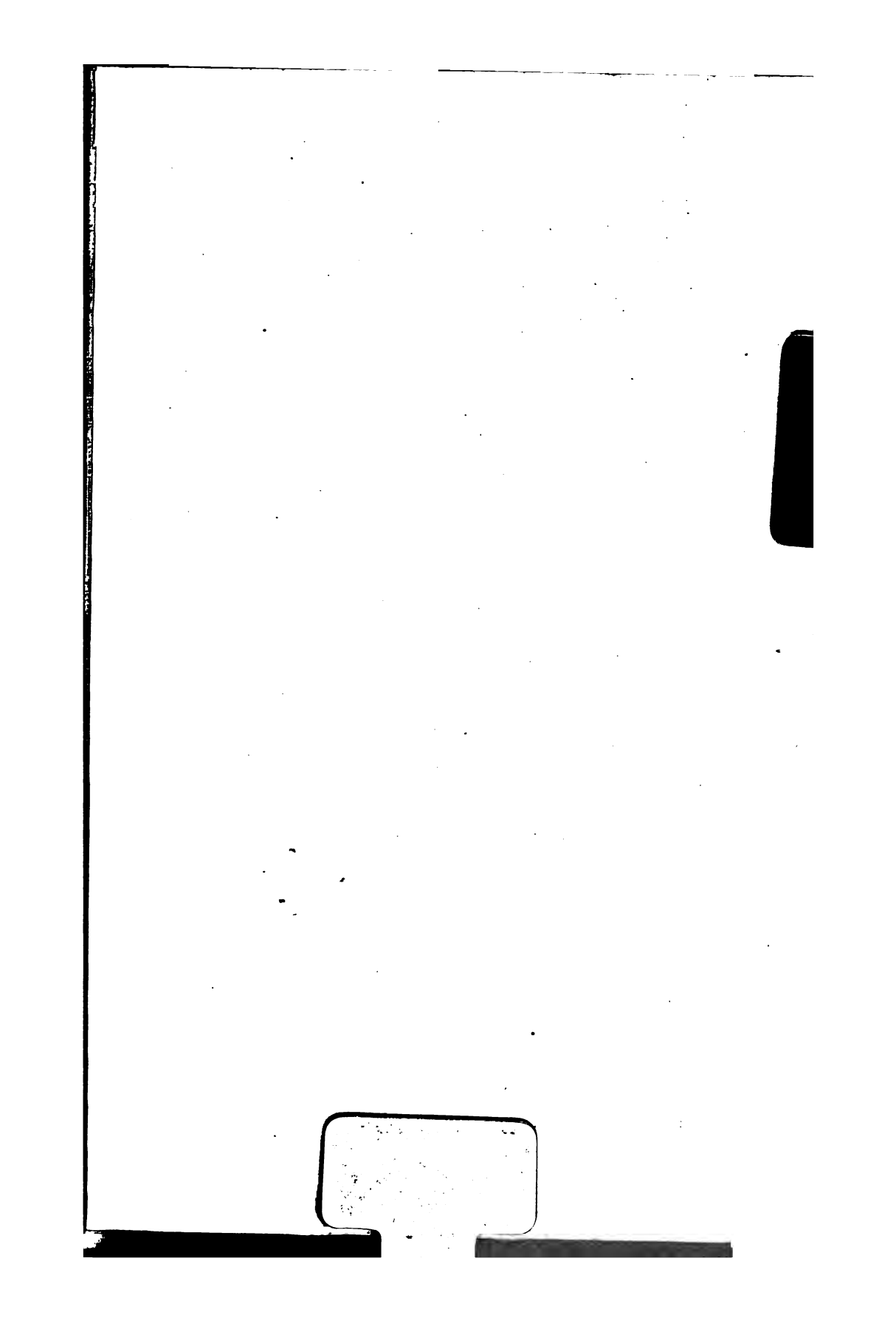
To the friends of the Federal Union, and of the Constitution of the United States:

These Commentaries have been suggested by our great civil war, by reflection upon current events and the causes of the war—upon the powers of the government—and upon the measures adopted by Congress and the Administration, to suppress the rebellion. Some portions of them have been published, as editorials, in the *Ann Arbor Journal*; but the most of the matter has been prepared expressly for this work.

Being an unconditional Union man—in favor of a federal, not a consolidated Union—and being a national, not a sectional republican—a conservative, not a radical—an old line whig, not an abolitionist—I have endeavored to give a faithful and impartial view of the American Constitutions and Governments, of their legitimate powers—and of the institutions and peoples of the United States; one that may be useful to the American people, in promoting union, harmony, and sound principles of government.

My intention is to continue the subject—to have another number issued soon, to be bound with this, to form a volume of 500 pages or more—and to discuss in the second number the causes of the rebellion—the extraordinary powers of the federal government, first called into exercise to suppress it; and also the character, capacities, and probable destiny of the colored race, in the United States.

Ann Arbor, Mich., May, 1863.